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# The Struggle for Land in Ireland

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JOSEPH G. POMFRET



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The struggle for land in Ire-  
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THE STRUGGLE  
FOR LAND IN IRELAND

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# The Struggle for Land in Ireland

1800 ∞ 1923

BY

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*To* WILLIAM E. LINGELBACH





THE WEST COAST OF IRELAND, 3000 A.D.

*The Elderly Gentleman*: "I am speaking the plainest English. Are you the landlord?"

*The Woman* (shaking her head): "There is a tradition in this part of the country of an animal with a name like that. It used to be hunted and shot in the barbarous ages. It is quite extinct now."

G. B. SHAW, *Back to Methuselah*



## PREFACE

**I**N writing of the Irish people during modern times two cardinal facts should be borne in mind; namely, that practically all were forced to eke a living from the soil and, furthermore, that these peasants were not owners but merely occupiers. Very early in the nineteenth century industry and commerce were so suppressed through competition and regulation that their rôle in the succeeding period of history is negative. The tenant bereft of his holding could not, as in other lands, go up to the city; his choice lay rather between starvation and emigration. To strike a balance between agriculture and industry remains one of Ireland's problems. Superimposed upon the social structure were the owners of the land. Traditionally English and absentee they formed a caste differing from the occupiers in nationality, station, and religious persuasion. The gulf between the classes was wide; the bridge narrow. Land they had in common: the ownership of it in one case, the use of it in the other.

Ownership was valued chiefly for the income it brought—the rent collected from the peasant holders. Where the tenant was unable to meet his obligation the landlord, exercising a legal right, evicted him. The occupier, however, had different notions of his relation to the land. He valued it for two reasons; first, it was his birthright, and secondly, it was the only means of keeping the wolf from the door. Land as a birthright had more than a sentimental significance; it meant the right, hallowed by custom, of using land in perpetuity. Thus, though the tenant paid the owner "rent," the occupier paid the conqueror "tribute." Eviction in English eyes was a due process; to the peasant it was outlawry. Land, therefore, was destined to be a source of conflict between the classes.

*As the population increased the land became insufficient; the peasant holdings grew smaller and the rent, a scarcity rent, higher. The landlords fell prey to abuses; the occupiers sank to a condition of unparalleled squalor and ignorance. Though the great famine diminished the population by half there was little relief. The owners for reasons of gain converted tillage to pasture and the old round of poverty, rack rent and eviction continued. Thousands fled from Ireland yearly, bearing with them an unrequited hatred of landlordism.*

*Overpopulation as the sole cause of misery had been discredited. The government awoke to the painful discovery that English ideas in regard to land were unacceptable to the peasantry. Coercion was freely employed in defense of the "sacred and inviolable" rights of property. The Irish, however, stubbornly insisted upon the sanctity of custom. After many blunders Gladstone went to the root of the trouble and in 1870 a partial recognition of the tenant-right was granted. This was the thin entering wedge. After a brief space the struggle was resumed and continued until the principle of a dual ownership was admitted. The right to remain upon the land, subject only to a "fair" rent, and the right of the tenant to dispose of his interest in the holding; these were the fruits of the victory of 1881. Thus did conservatism with a curious inversion of its intention bring about the destruction of the fixed institutions it wished to preserve.<sup>1</sup>*

*Meanwhile, the peasants had advanced beyond the knife and the gun. Leaders were found, associations formed and collective action employed against injustice. A new nationalism, based upon a common desire to hold the land, had arisen. Dual ownership was a first triumph. The leaders of the people, however, were ambitious. Home Rule became the goal, the panacea of all evils, and a handful of astute young men carried that banner to dizzy heights. But the peasants asked for something other than sheer idealism; they wanted the land.*

<sup>1</sup> E. P. Cheyney, *Law in History*, 14-15.

*When their representatives gained new concessions they were supported, but when they lagged the people had recourse to a "Land League," a "Plan of Campaign" or a "United Irish League." There was a magic in the formula, "the land for the people."*

*The struggle for the land is lost sight of in the glamor of Home Rule. Yet it forms an equally vital portion of the history of the people during this period. Indeed, so strong was this primitive force that the Conservative Party hoped by solving the land problem to demolish the movement for self-government. It almost succeeded in "killing Home Rule with kindness." The system of dual ownership was no more popular with the landlords than with the tenants. Fair rents had meant lower rents and lower rents, in the face of an organized peasantry, were as difficult to collect as high rents. Moreover, with the rise of democracy their power waned and in Great Britain their arguments were no longer accepted at face value. Under the kindly ægis of the Conservative Party they were enabled to seek cover. A succession of land purchase acts permitted them to retire from the field with a minimum of loss.*

*During the first years of the present century the erstwhile "serf" became the owner of his holding. Today relatively few tenants remain. Ireland is a peasant proprietary, and landlordism after three centuries is at an end. Granted success in her rural cooperative movement Ireland need have little concern regarding the future.*

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*This treatise in its original form was presented to the Faculty of the Graduate School of the University of Pennsylvania in partial fulfilment of the requirements for the degree of Doctor of Philosophy. It seemed wise, however, to relate the subject more fully to the history of Ireland since the Union than a narration of the growth of the peasant proprietary permitted and to that end a revision was undertaken.*

*The author is indebted for advice to Professors E. P. Cheyney and W. E. Lingelbach of the University of Pennsylvania and to Professor W. P. Hall of Princeton University, and for unfailing assistance to his wife, Sara Wise Pomfret.*

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## CHAPTER I

### THE IRISH PEASANTS 1800-1850

#### *Foreword*

IRELAND has always been and seems destined to remain a land of agriculture. Historically, her inhabitants have been wedded to the soil and the attraction has been constant, for the land is fertile. There is waste, of course; areas of bog and barren, and a large part of the province of Connaught in the west is notoriously inhospitable to man and beast. The growing-season is long, and due to warming waters the winter imposes no great hardship. Rainfall is plentiful and though occasionally too abundant is none the less a great boon. The soil is habitually clothed with a soft mantle of grass, hence the term Emerald Isle is no mere shibboleth. Through the centuries and so now the inhabitants have been impelled by kindly nature to till the soil and to rear their flocks.

The Irish have been designated as a backward people; a term commonly applied to those who have not shared in the blessings of the industrial revolution. Though to some extent Ireland has been influenced by that dynamic transformation, still her rôle has been essentially that of witness rather than participant. The reasons are numerous and in the main obvious. In addition to lacking the necessary deposits of coal and iron, Ireland's location on the periphery of Europe has isolated her in times past from the Continent. Geographically, England blocked the way. From the sixteenth century on England and Englishmen, challenged by the exigencies of an awakening Europe, embarked upon a course which led in time to the industrial revolution. But for Ireland in the

shadow of England there was little share in the immense volume of trade, no need to revamp her economic system to suit its demands; and in consequence there was no awakening.

The political ascendancy, too, of England has been a limiting factor in Irish economic development. Its consequences have been dwelt upon *ad nauseam* by Irish writers, and indeed cannot be entirely disregarded in the discussion of Irish problems. We must forego, however, the temptation of visualizing an Ireland without the British connection. This is a dangerous speculation, the more so since the fundamental factors of isolation and the remarkable suitability for agriculture are rarely given their due consideration. But the proposition that economic forces in Ireland were not allowed free play is an historical fact. Both as a dependent member of a great commercial and industrial empire, and as one adjacent and alien in many respects, Ireland suffered many restrictions. Not until late in the eighteenth century were the repressive barriers removed. In 1780 the colonial and the foreign markets were thrown open to Ireland, and by the Act of Union (1800) the marts of Great Britain.

The boon, however, came too late. Skill and capital were lacking and the system of absenteeism was fastened upon the land. True, under the Act of Union Irish manufactures were allowed a measure of protection, but the duties were neither high nor were they regarded as permanent. Nevertheless, in a number of instances, despite ruthless competition, the Irish manufacturer was able to retain the domestic market. But in the end the lamb was led to the slaughter. Although in 1820 a kindly disposed government acquiesced in the retention of the ten per cent level for five additional years and to a smaller degree of protection until the year 1840, the British manufacturers and free-traders raised such a hue and cry that the schedule of 1821 had to be discarded.<sup>1</sup> The date for the cessation of Irish protection was then moved up to 1829. "But even

<sup>1</sup> 1 Geo. IV c. 45.

this rapid reduction of the duties protecting Irish industry was not sufficient for a Parliament obsessed with the idea of *laissez faire*.”<sup>2</sup> The next year, 1825, practically all the duties were abolished.<sup>3</sup> At once the whole structure of the nascent Irish industries collapsed. The only exception was in Ulster.

Belfast and the adjoining section of Ireland enjoyed some natural advantages not common to the rest of Ireland—proximity to the coal supply and to the great manufacturing districts of the Black Belt—but these are not sufficient to account for the survival of industry in the northeast. Factors which prevented the growth of capital did not operate so viciously there. The inhabitants of Ulster were not alien; consequently they had never received the full shock of the Penal Laws. But of greater importance was the fact that under the Ulster Custom the relation between landlord and tenant was of such a nature that the former was not permitted to possess the entire produce of the soil. Both Protestant and Catholic escaped the scourge of rack renting. Even the smallest farmer was enabled to obtain something more than a mere subsistence from the soil. Purchasing power, so vital to trade, was in consequence never destroyed in Ulster. Capital accumulated, a middle class grew up and when the transition to modern industry set in, early in the nineteenth century, this community was able, to an extent, to keep pace. The survival of industry in Ulster is frequently explained on the ground that the processes of the linen industry were among the last to be taken over by the machine. Such an explanation seems inadequate.

Lacking an industrial development the Irish people for the most part turned to agriculture as a means of livelihood. One might expect, however, that an ideal relationship would develop between agricultural Ireland and industrial England.

<sup>2</sup> G. O'Brien, *The Economic History of Ireland from the Union to the Famine*, 429.

<sup>3</sup> 5 Geo. IV c. 22.

Historically this was not the case. Why was it that Ireland never filled this rôle to an appreciable extent? A second query, more elementary, will reveal the true nature of the problem with which we are about to deal. Why was this fertile land during the greater portion of the nineteenth century to afford its inhabitants no more than the most squalid form of existence? Were the Irish people the victims of circumstances; of English tyranny; or of an innate inability to adapt themselves to the requirements of modern times?

### *Decay*

The vicissitudes of the Irish peasants from 1815 to 1850 have been related many times and need not be repeated here. For our purpose it will suffice to examine the warp and woof of Irish life in the hope of ascertaining the causes of the poverty and the misery which that generation endured.

During most of the eighteenth century, owing to the Penal Code, Catholics were discouraged from tilling the soil. The landed proprietors had no choice but to let their lands in large holdings to capitalists. These men turned the land into pasture since there was a steady demand in England for graziers' produce. Furthermore, grazing lands were not subject to the ecclesiastical tithe. Although the cattlemen prospered, the population as a whole suffered, since fewer hands were needed to care for the stock. There was an abundance of poorly paid labor on the one hand and a scarcity of tillage land on the other.<sup>4</sup>

This condition of affairs was interrupted during the last quarter of the century by the removal of the Penal Laws and Catholics were once more permitted access to the soil. Meanwhile, tillage had fallen off to such an extent that the Irish Parliament found it necessary to take steps to encourage the raising of grain. By far the most important of these enactments was the Foster Act of 1784, which had the effect of

<sup>4</sup> W. T. Thornton, *A Plea for Peasant Proprietors*, 196-7.

making tillage more profitable than grazing. This law granted a bounty of 3s. 4d. a barrel on the export of wheat so long as the domestic price did not exceed 27s. a barrel; and it imposed a duty of 10s. a barrel on imported wheat when the price was less than 30s. It also granted bounties on the exportation of flour, barley, rye, oats, and peas.<sup>5</sup> The success of the measure was immediate for the amount of grain exported during the twelve years succeeding the act was greater than that of the eighty-four years preceding.<sup>6</sup> "From being devoted almost exclusively to pasture and reduced to the necessity of importing corn to the extent of half a million, Ireland now with a vastly increased population," says a contemporary report, "exports to the amount of four millions of tillage produce, without any perceptible diminution of the returns from her grazing system."<sup>7</sup>

At the turn of the century a transformation from grazing to tillage was in process, but because this change coincided with a prolonged period of war, it expanded far beyond its normal trend. In 1806 all restraints upon the importation of Irish corn into Great Britain were removed, and during the Peninsular Campaign shipments of Irish corn to troops were permitted at a price in excess of the maximum at which exportation was sanctioned. Indeed the merchants in 1813, under cover of these shipments, were detected in the act of selling large quantities of grain to foreign dealers at a handsome profit.<sup>8</sup> For a brief span of twenty years high prices and unparalleled prosperity ruled in Ireland. But it was prosperity based upon the duration of a war and Ireland was destined, owing to the nature of post-war adjustment, to become the victim of circumstances over which she had little control.

<sup>5</sup> Murray and Law, *Ireland*, 124.

<sup>6</sup> *ibid.*

<sup>7</sup> *Report and Estimates on Draining and Cultivating the Bogs*, 1818. Quoted in G. O'Brien, 43-4.

<sup>8</sup> *Official Papers, Public Record Office, Dublin*, Carton 456, no. 1637. Cited in G. O'Brien, 45.



A single generation later the inhabitants of Ireland were in a wretched poverty-stricken condition. In 1841, a few years prior to the great famine, about two-thirds of them were occupants of small holdings of land. Only a small number were able to till the soil with some degree of profit and live comfortably. The rest lived miserably, enjoying no margin of subsistence and were barely able to eke a living from the soil. Their lot was probably without parallel in Europe. Before examining the causes of this state of affairs let us glance for the moment at the picture of a society in process of decay.

According to the census of 1841 there were about 825,000 tenant holdings. Much confusion has arisen and still exists because of a convenient but useless division of the occupants into two classes, "cottiers" and "farmers." A cottier was one who contracted for the use of a plot of land, usually less than five acres in size, for a single season; while a farmer was a tenant who, unless disturbed, planted the same piece of land year in and year out.<sup>9</sup> Obviously, since there were some 450,000 cottiers among the peasants, the terms "cottier economy" and "cottier society" would seem to be of importance. The futility of such a division lies in the fact that not only all the cottiers, but most of the farmers, were living on the margin of subsistence. In 1835 an economist wrote: "I have applied the term 'farmers' to one class, though in truth there is no class which deserves the name, at least according to its significance in England. . . . It is hard to find any points of distinction between the farmer and the cottier."<sup>10</sup>

Of the "farmers," roughly 250,000 occupied holdings varying from five to fifteen acres in extent; 80,000 occupied holdings between fifteen and thirty acres, and about 50,000 occupied holdings which exceeded thirty acres in size. A contemporary wrote, "The tenant of twenty to thirty acres is but

<sup>9</sup> *Devon Commission Report*, 127.

<sup>10</sup> O'Flynn, *The Present State of the Irish Poor*, 1835. Quoted in G. O'Brien, 25.

little better accommodated than the cottier; he has probably an additional compartment, hardly divided, for a sleeping place or a dairy."<sup>11</sup> On the whole the average farmer was but one degree less miserable than the cottier.<sup>12</sup> It seems more pertinent in discussing the problem of Irish poverty, to divide the tillers of the soil into two groups on the basis of a difference in the standard of living. It is reasonable to presume that those farmers holding over thirty acres of land were farmers in the accepted sense of the word; able to work the land at a profit and to maintain a comfortable standard of living. Many holding from fifteen to thirty acres would have to be included in this category. In 1841, therefore, the peasants might be divided into two classes; a small group comprising possibly 100,000 and their families, tolerably well off, and a huge group embracing ninety per cent of the rural population of Ireland. To the first class poverty was alien; to the second a relentless scourge.

During the first portion of the period under discussion (1800-1850) the majority of the peasants were cottiers and their "way of life" can be best visualized by describing the cottier system. It must be kept in mind, however, that after 1815 that method of holding land began to fall into disuse, and at the time of the great famine had practically disappeared. Cottier holding was supplanted by "yearly tenure" and "tenancy-at-will."

There is no legal definition of a "cottier," but it is quite clear that he was an agricultural laborer who was forced to supplement his earnings by cultivating a small plot of land. The rent was usually paid in labor. This custom of taking land was generally known as "conacre," though it was called "mock ground," "dairy land," "stang," "quarter land," and "rood land" in various parts of Ireland. Conacre was the prevailing system in Munster and Connaught and was common in the

<sup>11</sup> J. E. Bicheno, *Ireland and Its Economy*, Vol. II, 779.

<sup>12</sup> G. O'Brien, 24.

other provinces. Essentially it was a truck system whereby the vendor prepared the ground for seed, while the vendee procured the seed and cultivated the crop. Since the vendor was, in most cases the employer, the cottier was usually paid his wages not in cash but in deductions from the rent.<sup>13</sup>

The effects of the cottier system were very bad. The rate of wages was so low that the laborer could rarely make both ends meet. The average wage was about 9d. a day and there were rarely over two hundred working days during the year. A laborer's annual earnings varied from £6 10s. to £8 10s.; while his rent might range from £6 to £10, depending upon the quality of the land. A pernicious abuse was practised in connection with the payment of rent in labor. The cottier performed most of his work at the busy season of the year when wages were temporarily high, but his employer reckoned his labor at the ordinary rate. Furthermore, since the employers' demands were heaviest during the planting and sowing seasons, the cottiers' land was neglected and the yield was commonly a poor one.

There existed frequently a discrepancy between wages and rent and the cottier was forced to make good the difference. In the early decades of the century the family pig was a "sinking fund"; but later a practice known as "spalpeening" arose. Thousands migrated each year to help in the English harvest, and the money so earned, about £3, was literally the salvation of the peasant. Others made up the deficit by begging. After the old potatoes had been consumed and before the new were ready the countryside was strewn with beggars, usually women folk, and no stigma was attached to it by the community at that season.

The standard of living was the lowest. "There is much less exaggeration," wrote Sir Walter Scott, "about the peasantry than might be imagined. Their poverty is not exaggerated; it is on the extreme verge of human misery; their cottages would

<sup>13</sup> *Devon Commission Report*, 474, 475.



scarce serve for pig styes even in Scotland; and their rags seem the very refuse of a sheep, and are overspread on their bodies with such ingenious variety of wretchedness that you would think nothing but some sort of perverted taste could have assembled so many shreds together.”<sup>14</sup> Nor is the official picture of conditions more heartening. “A great portion of them,” relates a contemporary report, “are insufficiently provided for at any time with the common necessities of life. Their habitations are wretched hovels; several of the family sleep together on straw, or on the bare ground, sometimes with a blanket, sometimes not even so much to cover them. Their food commonly consists of dry potatoes; and with these they are at times so scantily supplied as to be obliged to stint themselves to one spare meal during the day. . . . They sometimes get a herring or a little milk, but they never get meat except at Christmas, Easter and Shrovetide.”<sup>15</sup>

The backward state of Irish agriculture was, of course, not the cause of poverty but, like the low standard of living, it bore witness to that condition. Here also the evidence is overwhelming. “In point of natural fertility,” wrote a contemporary, “Ireland is greatly superior to England. Yet owing to an heretofore want of capital among the more numerous class of farmers, and a lamentable deficiency of agricultural knowledge on that of others, the products of Ireland, which ought unquestionably to be to those of England at least 6 to 5 are as 4 to 5 only. In other words, the former ought to produce at least one-half more than it actually does.”<sup>16</sup> With the exception of a few localities and upon a few estates, “The usual agricultural practice throughout Ireland is defective in the highest degree, whether as regards the permanent preparation and the improvement of the land essential to successful tillage, the limited selection of the crops cultivated, or the relative suc-

<sup>14</sup> From his diary. Entry of November 20, 1825.

<sup>15</sup> *Report on the Condition of Ireland*, 1836. Quoted in Locker Lampson, Appendix XXXVI.

<sup>16</sup> Sir E. Newenham, *View of Ireland*, 82.

cession and tillage of those crops.”<sup>17</sup> A very acute observer summing up the situation said: “It is certain that in Ireland there is abundance of exceedingly rich soil capable of producing the heaviest crops; and yet crops of this kind are seldom seen. This deficiency is to be ascribed to the wretched mode of cultivation and not to the quality of the land. Bad fallows, vile implements, ragwort and thistles, banks without hedges, land saturated with water, meadows mown, and the grass carried off without any return, oats frequently the same, the whole manure of the farm absorbed by the crop of potatoes, are all striking defects which will enable anyone to judge of the state of agriculture in Ireland.”<sup>18</sup>

The explanation of this condition of poverty among the Irish peasants is not simple because of the multitude of factors involved. In fact so few of the causes of poverty are lacking that every breed of social scientist from Malthusian to behaviorist has been afforded ample latitude to indulge his favorite theory. But it seems possible without omission or exaggeration to show that the peasantry was the victim of a group of economic circumstances over which, at most, it could exercise but little control. Viewed historically there were set in motion certain forces, which being unarrested, rendered catastrophe inevitable.

During the period from 1785 to 1815, the raising of grain was extremely profitable and the peasants were permitted to take up land. Owing to the general dearth of capital among that class a group of middlemen and land jobbers, large and small, were interposed between the owners and the cultivators. The owners, many of whom were absentees, were content to rent their domains to these shrewd speculators who, instead of cultivating, found it more profitable to farm out their leaseholds in small patches to the peasants. Frequently four or five middlemen came between the owner and the occupier;

<sup>17</sup> *Devon Commission Report*, 13.

<sup>18</sup> E. Wakefield, *Account of Ireland*, Vol. I, 579-80.

and often the income of the intermediary exceeded that of the owner. The tragedy of the situation lay, of course, in the intense desire of the peasants to be upon the land. Since the amount of land was limited and the population increasing by leaps and bounds, a fierce competition for holdings was set up—a circumstance which permitted a merciless exploitation. It was primarily due to this practice of subletting that there came into existence the large class of cottiers and small farmers of whom we have spoken.

In addition, after the passage of the Act of Union (1800) a number of landlords seeking political influence found it desirable to increase the numbers of their tenantry. By designating certain holdings as tenancies for life, their occupiers automatically became freeholders, endowed with the right to vote. Since under this unusual arrangement the landlord-tenant relationship was not disturbed, the Irish forty-shilling freeholder became the political creature of his landlord.<sup>19</sup> The penalty for disregarding the wishes of the owner was, of course, eviction. At the time of the passage of the Catholic Emancipation Act (1829) there were about 230,000 Irish freeholders.

During the score of years mentioned tillage flourished and relatively speaking there was an absence of hardship. A rapid increase of the population was noticeable, a tendency which continued until the middle of the century. In 1800 the population of Ireland was in the neighborhood of five millions; in 1821, it was estimated at six million eight hundred thousand. Steady employment, good wages, and a strip of land to till were within the reach of all. That the times were abnormal was the great misfortune. "We are inclined to think that the war had much to do with the evil of an excessive population in Ireland. The war acted in that country as a bounty upon population, not in the case of the peasants only, but greatly also in the middle classes. The war acted in various ways;

<sup>19</sup> G. O'Brien, 105.

the army, the navy, and the civil department were a resource of every family, rich and poor; and the stimulus which agriculture received called for additional hands and gave occupation to all.”<sup>20</sup> As a result of this short period of prosperity two tendencies had developed: a tremendous increase in the number of small agricultural holdings, and a rapid augmentation of the population. Neither could be easily checked.

The era of material prosperity came to a close with the termination of the continental wars in 1815. The demand for grain suddenly subsided; prices collapsed and the return to specie payments caused great hardship. The fall in the price of corn was universal and since the landlords refused to make corresponding reductions in rents many well-to-do farmers became insolvent or gave up their holdings. Then was inaugurated a process which has continued up to the present time: a reconversion to pasture. “Since the restoration of peace,” wrote a witness in 1816, “we have seen a rage for throwing all our arable land under pasture, which has greatly added to the agricultural distress.”<sup>21</sup> A few years later a parliamentary committee stated that “since the depression of prices of agricultural produce, the necessity of consolidating many small into one large farm seems to be generally admitted and acted on; and much of arable land has been laid down for the purpose of rearing and fattening cattle as well as for dairy.”<sup>22</sup> Of note was the introduction of steam navigation in the 'thirties which lowered the cost of transporting livestock.<sup>23</sup> So complete was the agricultural decline that soon only the poorest class was tilling the soil.<sup>24</sup>

All classes of society were adversely affected by the loss of

<sup>20</sup> J. O'Driscoll, *Views of Ireland*, Vol. I, 193.

<sup>21</sup> W. Parker, *A Plea for the General Improvement of the State of the Poor in Ireland*. Quoted in G. O'Brien, 52.

<sup>22</sup> *Select Committee on the Employment of the Poor in Ireland*, 1823.

<sup>23</sup> Lord Clements, *The Present Poverty of Ireland*.

<sup>24</sup> *ibid.* (written in 1838).

the agricultural market. Even the landlords did not escape. The diminished rent rolls led many of them to add encumbrances to estates already burdened. None, however, regretted the passing of the middleman who had played such a large share in fastening the cottier system upon the land. This parasite disappeared almost immediately and by the time a law was passed forbidding subletting he had become an anachronism.<sup>25</sup>

The peasants suffered most severely. At this point we shall consider only the immediate effects of the decline upon them. First, there was unemployment because so many large farms were withdrawn from cultivation. "The conacre holder's potato crop was simply preparatory to a corn crop by the farmer, and the result of the latter's abandonment of tillage was that no more land was offered in conacre."<sup>26</sup> With the ultimate disappearance of both the large farmer and the speculator, the cottiers were brought face to face with the owners of the land.

Consider the dilemma of the man of property. The whole structure of his good living had collapsed like a house of cards. His fields had been abandoned, his income had shrunk to a mere pittance and upon his estate was fastened a horde of cottiers and small tenants. Landlords were good, bad and indifferent. A number of them aided the indigent occupiers and permitted them to remain at reduced rents. But at best the situation was intolerable. There seemed to be but one remedy; to lease the land to the graziers. This, of course, necessitated the consolidation of small holdings. "From this time recommenced the specious theorizing concerning the advantage of large farms, the superfluity of population, the inaptitude of the soil to produce cereals or textile crops. . . ."<sup>27</sup> The great mass of cottiers became tenants at will or yearly tenants, pending the contemplated consolidation.

<sup>25</sup> 7 Geo. IV c. 49.

<sup>26</sup> G. O'Brien, 54.

<sup>27</sup> G. Sigerson, *Land and Tenures and Land Classes of Ireland*, 171.



For the peasants consolidation meant eviction. The year 1816 was, agriculturally, a bad one, due to excessive wetness and cold. The potato crop was defective.<sup>28</sup> The tenants were unable to pay their rents and in consequence were exposed to eviction. Since the common law took into consideration such acts of God, it was no easy matter for a landlord to carry out an action. Before 1816 it could not take place in a county court but had to be taken to a superior court, involving both expense and delay. But in that year and in years following, at the behest of the landlords, a number of acts were passed making ejectments both speedy and cheap.<sup>29</sup> Under this new code a tenant failing in his obligations could be removed in two months and at a cost of only two pounds. Furthermore, the landlords were permitted to distrain growing crops; to keep them until they were ripe; and to sell them when harvested, charging upon the tenant the accumulation of expense. And of paramount importance was the permission to have cases of ejectment adjudicated in the county court where the influence of the local landlord was great.

The harshness of this code stands out by contrast with the law in England during this period. There an action could not be completed in less than a year and the cost was £18. The landlord was not allowed to seize growing crops and was not permitted to sell distrained goods. In other words Parliament had given to the Irish landlord power to evict in cases in which he was not entitled to this remedy either by contract or by common law. Chief Justice Pennefather judicially declared that the Irish code was made solely for the benefit of the landlord and against the interest of the tenant and that it was upon this principle that judges must administer and interpret it.<sup>30</sup>

Two circumstances tended, but only temporarily, to miti-

<sup>28</sup> *Census of 1851*, Part V, 238-41.

<sup>29</sup> 56 Geo. III c. 88; 58 Geo. III c. 39; 1 Geo. IV c. 87.

<sup>30</sup> G. O'Brien, 159.

gate the eviction code. In the first place it applied only to those tenants holding under leases and was therefore not applicable to yearly tenants. This appeared, however, to work but little hardship upon the landlords, and indeed when the yearly tenant became a difficulty, an act was passed bringing them within the jurisdiction of the code. The second circumstance arose from the unwillingness of the owners to destroy the freehold tenants who were politically valuable to them. But in 1826, the freeholders rebelled and supported candidates favorable to Catholic emancipation. The landlords saw the writing on the wall, and with the passage of the emancipation bill, the freeholders were practically deprived of the vote. No longer was there a *raison d'être* for continuing them in occupation and they, too, were cleared. This class shrank from 191,000 in 1828 to 14,200 in 1830.

Thus, due to the desire on the part of the landlords to consolidate small holdings into large farms, the tenants were gradually expelled from the land. "This operation," wrote Sadler in 1829, "has now a particular term to express it and is now called 'clearing'—a very emphatic phrase in connection with the consequences. Hume somewhere says 'the comparison between the management of human beings and cattle is shocking,' but what terms can convey the natural disgust one feels when the comparison is between human beings and vermin. The rage, however, is for 'clearing' estates in Ireland from their human vermin."<sup>31</sup>

We are now in a position to examine closely Irish rural economy as it existed during the worst period of distress, roughly from 1820 to 1850. Recapitulating: during the years of comparative prosperity (1785-1815) two tendencies were revealed; the rooting of the population upon the land and a rapid increase of the population. A third tendency developed immediately after 1815 in the determination of the landlords

<sup>31</sup> M. T. Sadler, *Ireland and Its Evils*, 104.

to remove from the land the small holder. It must be kept in mind that all three forces remain active during the period about to be considered. In a nutshell: the peasantry, rapidly increasing in numbers, hold tenaciously to the land for without land they cannot exist; while the landlords, threatened with ruin, are convinced that the tenantry must be driven from the soil.

The rapid increase of population that marked the earlier years continued; in fact the population increased from 5,000,000 in 1800 to 8,175,000 in 1841. The idea, however, that the Irish people possessed any inherent propensity in the direction of increase is absurd. "The picture of Ireland," stated the census commissioners in 1901, "which we used to conjure up as a land of early marriages, resulting in numberless children has long been incorrect. . . . Far truer than the notion of a race multiplying like rabbits is the saying of George Moore 'nothing thrives in Ireland but the celibate.'"<sup>32</sup> Three or four generations ago there was a pride in the large family that was not confined to the Irish. Be it remembered, too, both illegitimacy and contraception were regarded as sinful. The necessity of increasing the standard of living as the logical remedy for overpopulation was characterized as a wish "to induce them to exchange chaste living for good eating."<sup>33</sup>

It was quite true that the poorest portion of the country was the most densely populated. But it was likewise true, as we shall presently show, that in these areas due to the viciousness of the land system no higher standard of living was possible, even by checking the birth rate. John Stuart Mill saw this clearly: "If by extra exertion he [the peasant] doubled the produce of his bit of land, or if he prudentially abstained from producing mouths to eat it up, his only gain would be to have more left to pay his landlord; while if he

<sup>32</sup> *Census*, 1901, General Report, 22.

<sup>33</sup> Sadler, 167.



had twenty children, they would still be fed first, and the landlord could only take what was left. Almost alone among mankind the Irish cottier is in this condition, that he can scarcely be better or worse off by any act of his own.”<sup>34</sup> Under such circumstances an additional child meant nothing more than another cup from the pot on the stove. The popular attitude was well expressed by Dr. Doyle, the Bishop of Kildare: “They say of marriage as of other changes of life, that it cannot make them worse, but it may give them a helpmate in distress, or at least a companion in suffering.”<sup>35</sup>

One of the chief causes of poverty was the practice of subdivision; an evil which flourished excessively during the years 1820-1850. Subdivision arose from the desire, indeed from the necessity, of the tenant to provide his children with land. When a son married, for instance, a certain portion of the holding would be turned over to him; and his children would in time be provided for in the same fashion. Since the holdings were none too large in any case, any degree of subdivision resulted in holdings that were too small to provide for the payment of rent or even sufficient food for the occupants. This state of affairs was commented upon as early as 1822. “Every patch produces a new family; every member of a family a new patch; and so on. Hence a country covered with beggars—a complete pauper warren.”<sup>36</sup> One landlord stated that the tenants would subdivide to the quarter of an acre if permitted; and another asserted that “they have gone on subdividing so far that instead of its being called a ‘cow’s grass’ it is gone down to a ‘cow’s foot’ which is one-fourth of a cow’s grass—nay, they have gone so low as a ‘cow’s toe’ which is one-eighth of a cow’s grass.”<sup>37</sup>

Landlords endeavored to put an end to the practice by covenanting against it in the letting agreement or by forbidding

<sup>34</sup> J. S. Mill, *Political Economy*, Vol. I, 389.

<sup>35</sup> Quoted in G. O’Brien, 73.

<sup>36</sup> *The State of the Nation*, 1822. See G. O’Brien, 47.

<sup>37</sup> *Devon Commission Report*, 443.

it absolutely. Often severe measures were resorted to such as withholding peat fuel from the offender or prohibiting the erection of new dwellings upon the holding. Every step short of actual eviction was taken to check subdivision. "The effects of subdivision are very bad," said an estate agent: "first, the land is cut into such small patches that a plow and horses, in many cases, will hardly turn in the field; and a large quantity of ground is lost in fences. Habits of slovenliness and idleness are increased and . . . the most subdivided leases are the worst paid though cheap, and the places are in the worst condition. I oppose subdivision all I can, but there is no duty connected with the management of property more difficult to be performed."<sup>38</sup> In spite of every effort there was no curtailment of the practice; when the son married, an additional room would be added to the cabin and part of the land set aside for his use. This custom explains in large measure why in 1841 one-half of the holdings were "uneconomic," less than eight acres in size.

The evils of subdividing were further aggravated by the fact that much of the land was held "in rundale." "Instead of each subtenant or assignee of a portion of the farm receiving his holding in one compact lot, he obtains a part in each particular quality of land, so that his tenement consists of a number of scattered patches, each too small to be separately fenced, and exposed to the constant depredations of his neighbors' cattle, thus affording a fruitful source of quarrels, and utterly preventing the possibility of the introduction of any improved system of husbandry. . . . Lord George Hill records, among other facts relating to rundale, that one person held his farm in forty-two different patches, and at last gave it up in despair of finding it; and that a field of half an acre was held by twenty-two different persons."<sup>39</sup>

The practice of subdivision is not sufficient to explain the state of poverty since there were thousands of farms capable,

<sup>38</sup> *Devon Commission Report*, 425.

<sup>39</sup> *ibid.*, 419.

if properly cultivated, of supporting their occupiers. In 1841, for instance, there were over 250,000 holdings varying from five to fifteen acres in extent, and at least 100,000 larger. Presumably, holdings over eight acres in size were economic in the sense of affording a sufficient living, and certainly the larger holdings might be expected to furnish some employment. In reality, however, a large number of small farmers were in dire distress, and as we have described little better off than the lowly cottiers. Their holdings were improperly cultivated, and the yield meagre.

The Irish land system was a second cause of poverty in Ireland. Three interrelated factors made it all but impossible for the average tenant to cultivate his holding properly. These were rents, improvements, and leases. The rents demanded of the cultivators were universally too high. "In tracing the present state of the relation of landlord and tenant in Ireland, we must admit, however reluctantly, that too high rents, or in other words too large a share of the produce of the soil is exacted of the occupier of land."<sup>40</sup> This fact, substantiated by a mass of evidence, was due to the fierce competition for land in a country where there was no alternative means of earning a living.

The Irish landlord was highly favored in that the whole rural population of the country was competing for the commodity which he controlled; and he proceeded to take full advantage of the situation. Instead of consulting with his tenant at the expiration of the term, he found it more profitable to put up the holding at "cant," a public auction. In this way he was able to capitalize the desire of the peasant to obtain land at any price and as a result a rent was extorted that was out of proportion to the yield. Rack renting, in addition to the misery it entailed, resulted in poor agriculture for it drew heavily upon that share of the gross income which normally would be used in replenishing the soil.

<sup>40</sup> J. Wiggins, *The Monster Misery of Ireland*, 1844.

"In the south and west of Ireland," we read, "the rent is commonly determined by proposals made by those who wish to obtain a vacant farm; the highest solvent bidder is in most cases accepted. It might be thought that there would be little danger to the tenant from such a mode of letting the farm; that no one would offer for land more than its value to himself; and that the person about to engage in such an undertaking would be well qualified to judge the proper capabilities and productive powers of the land. It is, however, asserted that this mode of determining rent is replete with evil; that, from the excessive competition for land, the tenant to obtain possession is tempted to offer a higher rent than can be paid for the farm under his unskilful management; that when making the offer he has no intention of fulfilling his part of the bargain, but trusts that the difficulty of enforcing repayment will ensure him a reduction afterwards. It appears that, though this mode of letting land is most common in the south and west of Ireland, it occasionally occurs in other districts, especially on estates under the courts, where it is almost invariably adopted."<sup>41</sup>

In Ireland it was customary for the landlord to rent simply the naked land. In most countries the lessee obtained not only the use of the land, but of appurtenances such as stables, farm buildings, fences and so on. These the Irish tenant, however, was obliged to furnish. A great injustice arose from the fact, for according to law, the landlord at the termination of the tenancy resumed possession not of the land alone but of all the appurtenances upon it. Had the letting agreements been of sufficient duration to insure the improving tenant a return upon his capital outlay, the injury would not have been great. But a yearly tenant or a tenant at will could not afford to take the risk. The liability of confiscation was too great. Indeed there are frequent instances of demands of increased rent on the basis of the very improvements made by the

<sup>41</sup> *Devon Commission Report*, 753-4.

occupying tenant. A refusal meant, of course, eviction with no compensation whatever.

The consequence of the absolute power of the landlord in this connection is quite obvious. Tenants refused to undertake improvements of any nature, neglecting even to manure and to drain. This condition goes far in explaining the pitiful condition of Irish agriculture. "The cultivator," wrote a contemporary, "from having too short a time in the land, has had little inducement to preserve the fences, where there are any, or to make and plant them where there are none. Neither can he afford to run any risks in attempting improvements in husbandry. His whole concern during the time he occupies the land is to obtain the most he can from it, however disadvantageous to the estate, in that way which his experience teaches him will just enable him to pay his rent and gain a scanty subsistence. It is not my purpose to enumerate all the pernicious effects of this system. It is the very pest of the country, the cankerworm of its prosperity."<sup>42</sup>

No less an observer than Mill wrote of this state of affairs: "The consequence is that there can be no improvement, and therefore there can be no employment; that the population are indolent, apathetic and apparently lazy; that they have not the sufficient means to support life, although these means could be procured from the soil by proper cultivation; and that amidst accumulating pauperism, overwhelming rates, and non-payment of either rents or rates the people are starving."<sup>43</sup> Thus it came about that, in a rich and fertile country, instead of flourishing farms there was only the spectacle of acres upon acres of potatoes in slovenly "lazy beds."

A final defect of the Irish land system had to do with the nature of the letting covenants. Here again the tenant was placed in an unfortunate position. In most cases the land was

<sup>42</sup> J. K. Trimmer, *A Brief Inquiry into the Present State of Agriculture in the Southern Parts of Ireland*.

<sup>43</sup> Quoted in G. O'Brien, 101-2.



let from year to year. The short duration of the tenancy left the landlord free either to practise rack renting or to withdraw the land from tillage. At the same time it gave rise to a feeling of insecurity on the part of the tenants and certainly negatived improvements. As a rule no written lease existed between landlord and tenant; the agreement was verbal, and this fact placed certain legal obstacles in the way of the landlord who wished to clear his land.

The custom of "running" or "hanging" gale was a settled institution in many districts.<sup>44</sup> "This is one of the great levers of oppression by which the lower classes are kept in a kind of perpetual bondage," wrote Wakefield, "for, as every family almost holds some portion of land and owes half a year's rent which the landlord can exact in a moment, this debt hangs over their heads like a load and keeps them in a continual state of anxiety and terror."<sup>45</sup> The tenant readily succumbed to the temptation to fall six months in arrears and in this way the landlord, on the ground of non-payment of rent, was enabled to evict at pleasure. But there existed an old rule that a tenant from year to year could not be evicted for non-payment without six months' notice, expiring with the tenancy. This obstacle was overcome by the device of a standing notice to quit issued annually. On many estates every tenant was regularly served with such a notice.<sup>46</sup> As late as 1870, the whole body of Lord Leitrim's tenantry was said to be served every April with notices to quit.<sup>47</sup> It was not difficult, therefore, for a landlord so to regulate his estate as to render every tenant upon it liable to instant eviction.

Such then was the Irish land system during the years preceding the great famine, and indeed for many years following. It was an immediate cause of Irish poverty and from

<sup>44</sup> *Devon Commission Report*, 757-8.

<sup>45</sup> Wakefield, Vol. I, 244.

<sup>46</sup> R. B. O'Brien (ed.), *Two Centuries of Irish History*, 488.

<sup>47</sup> *Report of the Poor Law Commissioners*, 1870, 15.

its toils the peasants could not escape. Rack rents reduced them to the margin of subsistence; the law in regard to improvements deprived them of hope; and the insecurity of their tenure kept them in a state of terror. "A situation more devoid of motives to either labor or self command," wrote Mill, "imagination itself cannot conceive. The inducements of free human beings are taken away and those of a slave not substituted."<sup>48</sup> In Ulster where the population was just as dense and the holdings no larger than in the rest of Ireland, there was a condition of agricultural prosperity. This condition was not due to any inherent superiority of the inhabitants, but in short to the fact that the grosser evils of the land system did not flourish there.<sup>49</sup>

As the famine year approached conditions became gradually worse. There was no improvement in agriculture and an ever-increasing population was living from hand to mouth. Each year the clearance system took its toll, severing its victims from land and from life. "Numbers resort to the cities, towns and villages. Some settle on waste lands, mountains or bog in their neighborhood, sometimes with their own means, and sometimes with the assistance of the landlord. This seems to be the case chiefly in Connaught. Some emigrate with the aid of the proprietors, but more by their own resources; and become dealers, little shopkeepers, or the keepers of shebeen houses. But after all there is a great residue of homeless wanderers."<sup>50</sup> A report of the Repeal Association paints an even more dismal picture. "The natural and necessary consequence of the system of clearance have been that large numbers of the ejected peasantry have been driven into miserable dwellings along the dykes, and in the ditches adjacent to the public roads; or to the filthy lanes of small neighboring towns; so that multitudes have perished, and are daily perish-

<sup>48</sup> Mill, *Political Economy*, Vol. I, 389.

<sup>49</sup> See *infra*, 53-6.

<sup>50</sup> *Poor Inquiry Commission*, 1834, App. H, parts 2, 21.

ing, from sheer want of the common necessities of life; the clearance system being the natural and necessary propagator of disease and death.”<sup>51</sup>

### *Abortive Efforts and Neglected Opportunities*

The question naturally arises whether attempts were made in the years preceding the famine to solve the problem of poverty. Economists of the present generation have pointed out several measures whose adoption would have served to increase the wealth of Ireland to a point in keeping with its growing population. A development of the manufacturing industry would have been a great boon, but this possibility as we have seen was accorded little consideration. George O'Brien, the dean of Irish economists, maintains that there were three possible approaches: measures to increase the amount of produce per acre; or in the direction of increasing the amount of land under cultivation; or finally in securing a more equitable division of the produce of the soil between the landlord and tenant. To what extent these measures were given consideration by the peasants themselves, by their landlords, and by the government, we shall endeavor to determine.<sup>52</sup>

First—the peasants. As a class they were ignorant, poverty stricken and unorganized. Unfortunately, the land question was never made the object of a crusade by Daniel O'Connell. His defenders generously explain his passivity by saying: “The land question which really appealed to his imagination and stirred the depths of his soul, was the ancient expulsion of the Catholic owners of the soil, and their replacement by Protestants, rather than existing wrongs of the actual cultivation of the soil, under an uncongenial land system.”<sup>53</sup>

The discontent caused by the hardships of life manifested

<sup>51</sup> *Repeal Association Reports* (1845), Vol. II, 297.

<sup>52</sup> Failure of the government to give due consideration to certain remedies is made a *casus belli* in an otherwise admirable book.

<sup>53</sup> R. B. O'Brien (ed.), 379.



itself in agrarian crimes and disturbances of every description. Although personal revenge was the motive of individual crimes against the landlord and his property, yet it is clear that in the main there existed a class war. Mill termed the agitation a "defensive civil war" on the part of the tenant to retain his holding, and stated that "Rockism and Whiteboyism are the determination of a people, who have nothing that can be called theirs but a daily meal of the lowest description of food not to submit to being deprived of that for other people's convenience."<sup>54</sup> "But for the salutary dread of the Whiteboy Association," wrote Poulett Scrope in 1834, "ejectment would desolate Ireland and decimate her population, casting forth thousands of families like noxious weeds rooted out of the soil on which they have hitherto grown, perhaps too luxuriantly, and fling them away to perish in roadside ditches. Yes, the Whiteboy system is the only check on the ejectment system; and weighing one against the other, horror against horror, and crime against crime, is perhaps the lesser evil of the two."<sup>55</sup>

The tenants never allowed an unwarranted eviction to pass without retribution, and any move toward a general clearance seriously disturbed the peace of the community. By tacit consent the tenant who took up an evicted holding was looked upon as a traitor to his class and frequently lost his life as a result of his treason. Lacking legal remedies and lacking influence in the law-making body, the tenant class waged war through the agency of the secret society. This weapon was most successful since it enjoyed the absolute confidence of a community which regarded the law of the land as the instrumentality of the enemy class.

Secret societies were largely local and of short duration. Since certain names acquired popularity, one is led to believe

<sup>54</sup> Mill, *Political Economy*, Vol. I, 389.

<sup>55</sup> C. P. Scrope, *Letter to Lord Melbourne*, 1834. Scrope was an English radical M.P.

that many of them enjoyed a national activity. One hears again and again of Whiteboys, Threshers, Blackfeet, Shanavats, Rockites and many others. Usually, however, there was little connection between societies bearing identical names, and where there was a national organization it was loose. A society was easily formed and easily dissolved; it dealt out a rough justice to the offending landlord and disappeared. But at most organized agrarian crime is hideous and though in a sense serving a desperate need, it works in secret and in darkness, and fails often to distinguish between the innocent and the guilty.

The government attempted to stamp out crime of this nature by coercive measures such as Insurrection Acts, Arms Acts, Peace Preservation Acts and Acts for the Suspension of Habeas Corpus. From the Act of Union (1800) to the outbreak of the great famine (1845), with the exception of the brief period, 1835-1840, Ireland was ruled with the aid of these extraordinary laws. Far from engendering any respect for property the government succeeded only in arousing a sort of national sympathy for the perpetrators of crime who became known as "the hunted and the martyred."

Politically because they could not vote, economically because of the land system and socially because they were outcast, the peasants were not in a position to minister to the disease which was slowly devouring them. The challenge of life for them was to hold to the land, for failure to do so meant annihilation; and although lying, cajolery, trickery and crime are difficult to condone, still these seemed the only instrumentalities capable of staving off slow starvation.

Then—the landlords. As a class they contributed nothing to the solution of the problem. As Mill observed: "It is never safe to expect that a class or a body of men will act contrary to their immediate pecuniary interest."<sup>56</sup> Unfortunately, the Irish landlord seemed to be guided by that considera-

<sup>56</sup> Mill, *Political Economy*, Vol. I, 384.

tion alone. Their tremendous political influence was directed mainly towards securing legislation strengthening their rights as against the tenants rather than in the direction of increasing either the quality or the quantity of the produce of the land.

The landlords never realized the truth of the dictum: "Property has its duties as well as its rights." The scathing censure of the Scotsman, Thomas Drummond, under-secretary under Lord Morpeth, was never answered. In 1837, the evicting landlords of Tipperary through their sepoys, the magistrates, cried out for stronger powers to deal with the prevailing agrarian outrages. Drummond, pointing out that the number of ejectments in Tipperary in 1837 was double the number in 1833, accused the landlords of attempting too rapidly to retrace their steps. "The deficiency of the demand for labor and the want, as yet, of any legal provisions against utter destitution, leave this humble class, when ejected, without any certain protection against actual destitution. Hence the wholesale expulsion of cottier tenants is unfortunately found, with the great body of people, to enlist the strongest feelings—those of self preservation—on the side even of guilt, in the vindication of what they falsely assume to be their rights. . . ." <sup>57</sup> And, in a single sentence, Drummond went straight to the core of the whole matter. "Property has its duties as well as its rights. To the neglect of those duties in times past is mainly to be ascribed that diseased state of society in which such crimes take their rise; and it is not in the enactment of statutes of extraordinary severity, but chiefly in the better and more faithful performance of those duties, and the more enlightened and humane exercise of those rights, that a permanent remedy for such disorders is to be sought." <sup>58</sup>

But the landlords as a class were alien and absentee, and had little interest either in the welfare of the peasants or in the improvement of their property. As late as 1887, Lord

<sup>57</sup> Quoted in Locker Lampson, 242.

<sup>58</sup> *idem*, 243.

Cowper was able to assert that "one could count on one's fingers the number of Irish estates on which improvements had been made by the landlords."<sup>59</sup> Yet in England at that time the investments of the owners were calculated at £700,000,000.<sup>60</sup> During the period preceding the famine the landlords seem to have acted entirely upon two assumptions, first that large farms were more profitable than small, and secondly, that Ireland was overpopulated in proportion to her resources. George O'Brien has adduced much evidence from contemporary sources to demonstrate the falsity of the landlord assumptions.<sup>61</sup> Historically, however, and for us that is the important thing, the owners of property were guided by those assumptions and there was in consequence no mitigation of the clearance system during this period.

Finally—the government. It is certain that the government was not unaware of the problem of Irish poverty. Between 1800 and 1833, it is said, no less than 114 commissions and 60 select committees had investigated the state of Ireland.<sup>62</sup> Theoretically there were three remedies possible: an increase in the quality of agriculture, or in the quantity of the produce—both desirable; or a diminution in the population—which was undesirable. In other words, the best way of meeting the tendency toward overpopulation would have been to develop the resources of the country to a greater degree.

No increase in the quality of agriculture was possible unless the distribution of the produce of the soil was corrected in favor of the tenant. This would mean tampering with the land system; something which was anathema to the whole doctrine of the sanctity of property rights. "The obvious source of the miseries under which this country at present labors," wrote a clergyman in 1827, "is perhaps beyond the region of direct legislative interference. I allude to the system

<sup>59</sup> M. Davitt, *The Fall of Feudalism in Ireland*, 240.

<sup>60</sup> *ibid.*, 241.

<sup>61</sup> See chap. IV of his work.

<sup>62</sup> Scrope, *Ireland before and after the Union*, 88.

adopted in letting land. To regulate the management of private property is not the province of a wise government.”<sup>63</sup> Indeed, Charles Grant, a chief-secretary, had already pondered on that question. “Is it within the province of government to interfere between landlord and tenant? Or would it be proper that legislative enactments should prescribe to the landlord the conduct which he ought to pursue in that relation? In this respect, as in many others, our appeal must be made to the landed gentry of Ireland.”<sup>64</sup>

In that day and generation the classical economists had successfully impressed their doctrines of non-interference upon the government; a view which coincided incidentally with that held by the landlords. The mockery, however, of the application of *laissez faire* to the Irish landed relation was pointed out by Poulett Scrope in 1848. “The law as it stands at present is the result of innumerable interferences in favor of the landlord and against the tenant. Some sixty acts of this one-sided legislation stand catalogued in the statute book. If all these were repealed, there would be something to be said for non-interference.”<sup>65</sup> There was a demand nevertheless for interference by Parliament which never completely died out. But the schemes of the reformers were treated with indifference and ridicule, and the attitude of the government toward any change in the Irish land system was hostile.<sup>66</sup>

There existed the possibility of remedying conditions by an increase in the quantity of agricultural produce. This end could only be attained in one way; by increasing the amount of land under cultivation. There were in Ireland thousands upon thousands of acres of unimproved land that might be

<sup>63</sup> The Rev. M. I. Keating, *A Letter to Wilmot Horton, Esq., M.P.*, 1827. See G. O'Brien, 131.

<sup>64</sup> Speech of the Rt. Hon. Charles Grant in the House of Commons on April 22, 1822. Quoted in G. O'Brien, 131.

<sup>65</sup> Scrope, *A Plea for the Rights of Industry in Ireland*. Quoted in G. O'Brien, 132.

<sup>66</sup> See *infra*, 59-71.



reclaimed for cultivation if some arrangement could be made for draining it. Frequent estimates indicate that it would have been possible to increase cultivable land by at least twenty-five per cent.

The findings of Richard Griffith, an agricultural expert, were accepted in the four reports of the commissioners on bogs early in the century (1810-1814), and were never seriously challenged thereafter. It was estimated that there were 2,830,000 acres of bog reclaimable without loss. In the Devon Commission Report of 1845 the figure was enlarged to nearly four million. From 1810 to 1845 the project of reclamation was urged upon the government by investigating bodies too numerous to mention here.<sup>67</sup> The Devon Commission, a conservative body, in its report stated: "Without going the length of supposing that employment for the people upon bringing such lands into a profitable cultivation is to furnish a cure for the evils of Ireland, we concur in the opinion, so strongly expressed in former reports, that very great advantages may be expected to result from judicious arrangements for that purpose."<sup>68</sup>

Little good, however, came of thirty-five years of effort. In 1835, an act was passed which included provisions for lending money to owners for reclamation purposes; but so onerous were the terms that only two loans were actually made.<sup>69</sup> The government acted to an extent upon the recommendation of the Devon Commission, for in 1846 and 1847 there was inaugurated a policy of reclamation which was considerably expanded during later years.<sup>70</sup> But these measures came too late to stave off catastrophe, for in 1845 the great famine began.

The question may now be put, did the government, neglect-

<sup>67</sup> See G. O'Brien, chaps. IV and VI.

<sup>68</sup> *Devon Commission Report*, 1143. The scheme of the agricultural expert, J. P. Kennedy, is of great interest; *ibid.*, 563-75.

<sup>69</sup> 1 and 2 Wm. IV c. 33.

<sup>70</sup> 9 and 10 Vict. c. 1 and c. 101; 10 and 11 Vict. c. 32.

ing other opportunities, deliberately sponsor a policy calculated to decrease the population? It is only fair to state at the start that no such end was consciously contemplated. At the same time the government, by assisting the landlord policy of consolidation with legislative favors such as the various ejectment acts and that raising the franchise in 1829, in a sense helped to render living conditions in Ireland unendurable.

The poor-law policy of the English government was at once its most serious endeavor and its greatest blunder. The establishment of the workhouse system in Ireland in 1838 was the consequence of a long agitation on the part of the English public which had become wedded to the idea that the influx of Irish labor was depressing wages and at the same time throwing the burden of caring for the Irish poor on the English poor-law unions. If there were an Irish poor law, it was argued, the Irish in England might justly be excluded from relief there. Incidentally, it was hoped that by this remedy the Irish hordes would be discouraged from migrating to England.

Together with this selfish aspect went a motive which was sincerely humanitarian. This was fairly expressed by George Nicholls, the framer of the Irish poor law. "An impression had long prevailed, and was daily becoming stronger, of the necessity for making some provision for the relief of the destitute poor in Ireland. The perpetually increasing intercourse between the two countries brought under English notice the wretched state of a large proportion of the people in the sister island; and vast numbers of them who crossed the channel in search of the means of living, and became more or less domiciled in the large towns and throughout the western districts of England, made it a matter of policy, as it assuredly was of humanity, to endeavor to improve their condition; and nothing seemed so equitable or so readily effective for this purpose as making property liable for the relief of



destitution in Ireland as was the case in England, in other words, establishing some description of poor law.”<sup>71</sup>

The establishment of a poor law in Ireland had an unfortunate side—one of lost opportunity. The government proceeded correctly in appointing a commission composed of Irishmen to investigate the necessity of such a law. After three years of investigation this commission reported frankly: “We cannot recommend the present workhouse system of England as at all suited to Ireland.” It estimated that for thirty weeks during the year there would be over two million persons in distress, and that the annual cost of maintaining them in workhouses would approximate £5,000,000—a prohibitive figure. In comparison the gross annual rental of all Ireland did not exceed £10,000,000.

“The difficulty in Ireland is not to make the able-bodied look for employment, but to find it profitably for the many who seek it.”<sup>72</sup> Rather than drain the country of capital in establishing workhouses, it would be much wiser to extend the demand for free labor. The Irish Commission, acting upon this conviction, recommended a scheme for the compulsory improvement of property. Large measures of reclamation, road building, drainage and housing were comprehended. But the government set aside the whole report, and subsequently adopted a scheme of workhouse relief drawn up by Nicholls, the English poor-law expert. Nicholls based his scheme upon a six weeks’ survey tour through Ireland. The government in 1838, therefore, rejected a comprehensive scheme of amelioration, in favor of one which was not only inadequate but also unsuitable.

In 1848, Poulett Scrope wrote: “The influence of the new poor law has accelerated immensely the clearances of estates.” Undoubtedly, the increase of rates upon property acted upon

<sup>71</sup> Sir G. Nicholls, *History of the Irish Poor Laws*, 153.

<sup>72</sup> *Third Report of the Irish Poor Law Commissioners*. Quoted in G. O’Brien, 177.

the owners as a stimulus in that direction. This unfortunate result has led Irish writers to accept the view "that the true reason which impelled the government to rush through its measure for the establishment of an Irish poor law was that it hoped that such a law would operate as an aid to depopulation."<sup>73</sup> Regardless, however, of ulterior motive, it is certain that the attempt to alleviate Irish poverty by means of a transported workhouse system was a flat failure.

In one respect the English government refused to concur in the opinion of the economists. It refused to espouse any colossal project of overseas emigration. Until 1838 there was no largess of any kind for the purpose; and subsequently there was little state-aided emigration, for the burden of costs fell largely upon the local unions—an agency already staggering under a load. Throughout the period preceding the famine there was a substantial exodus, not, however, of the indigent, but of the more prosperous elements of the population. Far from relieving the pressure of overpopulation, this emigration was a source of weakness as it drew off the more energetic and the thrifty.

It has been shown that the government, as well as the peasants and the landlords, did little to correct the causes of Irish poverty. The government which was in a position to interfere showed slight interest in measures of real merit. The introduction of the poor law, however well intentioned, had the effect of accelerating the processes of destruction. No seer was needed to prophesy what would take place were a serious crop failure to befall the Irish people.

<sup>73</sup> G. O'Brien, 189. This view is developed at some length, 189-96.

## CHAPTER II

THE MAGIC OF LAISSEZ FAIRE 1850-1870

### *The Great Famine*

IT IS NOT our purpose to retell the story of the great famine of the years 1845, 1846 and 1847. The official record of the calamity suffices. "Agriculture was neglected and the land in many places remained untilled. Thousands were supported from day to day upon the bounty of outdoor relief; the closest ties of kindred were dissolved; the most ancient and long-cherished usages of the people were disregarded; food the most revolting to human palates was eagerly devoured; the once proverbial gaiety and light-heartedness of the peasant people seemed to have vanished completely; and village merriment or marriage festival was no longer seen or heard throughout the regions desolated by the intensity and extent of the famine; finally, the disorganization of society became marked and memorable by the exodus of above one million of people, who deserted their homes and hearths to seek food and shelter in foreign lands, of whom thousands perished from pestilence and the hardships endured on shipboard. It is scarcely possible to exaggerate in imagination what people will and are forced to do before they die from absolute want of food, for not only does the body become darkened, the feelings callous, blunted and apathetic, but a peculiar fever was generated, which became but too well known to the medical profession in Ireland at that time, and to all those engaged in administering relief. In this state of what may almost be called mania, before the final collapse takes place, when the victim sinks into utter prostration through inanition, some instances may have occurred

at which human nature in its ordinary healthy condition revolts. Thus a stipendiary magistrate stated in Galway in extenuation of the crime of a poor prisoner brought up for stealing food, that to his own knowledge, before he was brought to the theft, he and his family had actually consumed part of a human body lying dead in the cabin with them. Generally speaking, the actually starving people lived upon the carcasses of diseased cattle, upon dogs, and dead horses, but principally upon the herbs of the field, nettle tops, wild mustard, and water cresses, and even in some places dead bodies were found with grasses in their mouths. The shamrock or wood sorrel, mentioned by Spencer as forming part of the food used by the starving people in his time, does not now, owing to the extirpation of woods, exist in sufficient quantity to afford any nutriment; but along the coast every description of seaweed was generally devoured, often with fatal consequence; even the dillisk or 'salt-leaf,' though a safe occasional condiment, became the cause of disease when used as the sole support of life."<sup>1</sup>

The government confronted with the problem of feeding a starving people, adjusted itself to an unprecedented situation as best it could. It was realized almost immediately that private charity was inadequate and must be supplanted by public endeavor. In January of 1846, the first of a series of measures dealing with the reduction of duties on corn was brought in; and before the famine had spent itself Parliament, to the infinite satisfaction of the free-traders, was forced to abandon the two remaining vestiges of protection—the corn laws and the navigation system. These measures were not effective in dealing with the immediate distress as the navigation system was not abolished before the famine was over. Grain from the United States and Russia had to be carried in British ships, and at rates which trebled under pressure of the demand. Unfortunately for the Irish the sub-

<sup>1</sup> *Census of Ireland, 1851, Part V, 243.*

ject of free trade was controversial and the debates in Parliament consumed precious time. The proposal of January 1846, for instance, did not become law until the end of June. The government has been severely criticized, too, for failing to take steps to prevent the exportation of Irish agricultural produce, but the question is a debatable one. Irish exports for the year 1847 were valued at approximately £45,000,000; sufficient in quantity to feed the population of the island.

Meanwhile, the government undertook to purchase supplies of Indian corn in America; a wise measure. It became apparent, however, that the Irish peasant had not the necessary purchasing power to buy food; and the problem became one of furnishing employment. To that end several acts were passed providing for the expenditure of large sums of money on public works such as roads, piers, and so forth. At one time, March 1847, 734,000 laborers were employed on relief works. This meant in all the support of three million persons, a considerable percentage of the population. Much criticism was directed at the government on account of the unproductive nature of the relief works. Lord John Russell strove to check the extravagance of the local baronies by providing that the whole of the expenditure rather than half, as under Peel, should be a local charge. But the year 1846 had witnessed a crop failure that was appalling, and in consequence the baronies voted moneys regardless of amount or of purpose in an effort to stave off starvation.

Under the Labour Rate Act just referred to, the burden of taxation fell not upon the occupier as formerly, but more heavily upon the landlord. The landlords were made responsible for the whole charge on tenements valued under £4, and a substantial amount, usually one-half, on all holdings above that yearly valuation. There came into existence, therefore, a motive for getting rid of tenants. Although the law provided that the wage scale on public works should in every district come to somewhat less than the agricultural wage there, it



became apparent that the landlords were encouraging their tenants to work for the government. To the *Times* the landlords were "a confederacy of rich proprietors to dun the national treasury, and to eke out from their resources that employment for the poor which they are themselves bound to provide by every sense of duty to a land from which they derive their incomes."<sup>2</sup>

On the other hand one who had little reason to be friendly to that class wrote: "The resident landlords and their families did, in many cases, devote themselves to the task of saving their poor people alive. Many remitted their rents, or half their rents; and the ladies kept their servants busy and their kitchens smoking with continual preparation of food for the poor."<sup>3</sup> That there were many evictions during this period there can be no doubt, but one can hardly blame the landlords, practically bereft of income, for advising their tenants to seek employment upon works which they themselves were compelled to support by taxation.

There is, too, another consideration. All works were to be of a public nature, and as such were of little benefit to the estates of the owners. Only in October 1846 were the landlords permitted to borrow for the improvement of their estates, but the terms were too onerous to elicit much response. As one pamphleteer wrote: "The Labour Rate Act to a great extent paralysed the exertions of improving landlords. Those who lamented the effects of the law could not take upon themselves the responsibility of declining its provisions. They could not encounter the risk of leaving a large population of destitute poor to the precarious support to be obtained from private employment; and, with diminished means, they could not reserve their funds to meet heavy taxation, and at the same time expend those funds in carrying on measures of improvement upon their properties."<sup>4</sup>

<sup>2</sup> September 22, 1846.

<sup>3</sup> J. Mitchel, *History of Ireland*, Vol. II, 213.

<sup>4</sup> J. Ball, *What Is To Be Done for Ireland?*, 1849.

The government brought this extravagant system of relief to a close during the months of March to August 1847. It fell back upon the very simple solution of feeding the poor. To this end the poor law had to be amended to permit of outdoor relief. Soup kitchens were erected in the impoverished districts and proved adequate to cope with the situation at a remarkably low cost. Unfortunately, there was attached a severe test, known as the Gregory Clause, which provided that no person in possession of more than a quarter acre of land could be deemed destitute and that it was not lawful for guardians to relieve such persons.<sup>5</sup> Understanding the love of the peasant for land, it is not to be wondered at that, in many cases, he refused to surrender it even in the face of destitution. "The class of poor and destitute occupiers, who are debarred by law unless they give up their land, struggle, notwithstanding their great privations, to retain it, and endeavor by every effort to pass through the season of difficulty, by which they see the prospect of their former mode of subsistence returning, provided they continue in the possession of their land. The use for a long time of inferior food has in such cases sometimes induced disease fatal to the occupier himself or one or more members of his family."<sup>6</sup> Although provision was later made for the members of families evicted under such circumstances,<sup>7</sup> the Gregory Clause has ever been condemned as "the cheapest and most efficient of the ejectment acts." For this reason and for others, evictions flourished during this period; from 1847-1849 there were 25,700 ejectments granted by the courts; while during four following years, 1849-1852, 58,423 families comprising 306,120 souls were evicted.

The harvest of 1848 was normal and with it the famine may be said to have come to an end. From an examination

<sup>5</sup> 10 Vict. c. 41.

<sup>6</sup> *First Report of the Irish Poor Law Commission*, 1847, 18.

<sup>7</sup> 11 and 12 Vict. c. 47.



of the relief measures just discussed it is clear that the government was trying desperately to meet an emergency. There was little thought of the future and as a result there was no sense of responsibility awakened toward the Irish peasants.

In a sense the repeal of the corn laws was as much a catastrophe for the large Irish farmer as for the English. In fact it was in England that he found a market for his grain and without the protection which the law afforded him, he found it impossible to till the soil at a profit. "The Irish Famine," wrote Cunningham, "was the direct occasion of breaking down the policy of agricultural protection; the importation of foodstuffs was temporarily encouraged for the sake of the starving peasantry; but the complete abandonment of the corn laws proved to be a very serious blow to the more energetic elements of the population."<sup>8</sup> "Free trade," wrote Isaac Butt in 1849, "has very much declined the value of what is raised."<sup>9</sup> The farmers who found it unprofitable longer to raise grain naturally turned, as others long before had done, to grazing. Hence the abolition of the corn laws gave an impetus to the clearance movement; and in fact the conversion from tillage to pasture steadily increased as the century progressed.

At the height of the famine John Stuart Mill wrote: "You ask what I think of the Irish measures. I expect nothing from them but mischief, or if any good, only through excess of evil."<sup>10</sup> This opinion was substantiated by a select committee of the House of Lords in 1852 which spoke of "the uselessness of a great portion of the works executed, their incompleteness, and the enormous waste of labor and capital which they have produced." As far as any benefit accruing from the mass of public works during this period there was none. In

<sup>8</sup> W. Cunningham, *Growth of English Commerce and Industry*, Vol. III, 848.

<sup>9</sup> I. Butt, *The Rate in Aid*, 1849. Quoted in G. O'Brien, 206.

<sup>10</sup> H. Elliot (ed.), *Letters of John Stuart Mill*, Vol. I, 132.

view of the fact that for years the government had before it in one form or another schemes for increasing the amount of land under cultivation, it seems a dire misfortune that there emerged no policy of systematically reclaiming land.

But one question at least was settled. The equation between the population and the food supply was balanced, not, however, by increasing the latter but by decreasing the former. During the decade from 1841 to 1851 the recorded mortality was 958,000 and the exodus by emigration 1,640,000. As for those who remained, the future seemed as hopeless as the past.

### *The Aftermath of the Famine*

As a result of the famine the population did not reach 9,000,000 in 1851, as predicted, but shrank to 6,500,000. The density of the population fell from 217 to 164 per square mile, and there was hardly a village in Ireland which did not suffer perceptibly. Of the provinces, bleak Connaught in the west lost most heavily—the diminution of the population there was about thirty per cent.<sup>11</sup> Multitudes perished and thousands mournfully set out for the New World. The lowly cottier class was almost extinguished. In the census of 1851 it is recorded that seventy per cent of the “fourth-class” dwelling houses, mud cabins containing a single room, had disappeared.<sup>12</sup> The feeling of emptiness so frequently alluded to in contemporary annals was tangible as well as spiritual.

The return of normal conditions was insufficient to restrain the exodus which the famine had set up. Emigration became an epidemic among the peasants and for many years it exceeded one hundred thousand. Between 1848 and 1864 the Irish in America alone sent back £13,000,000 in the form of

<sup>11</sup> *Census of Ireland*, 1851. See General Report. The decline in Connaught was 29%; Munster, 23%; Ulster, 16%; Leinster, 15%.

<sup>12</sup> 355,689 in all.

prepaid passages.<sup>13</sup> In spite of all the efforts which were made to check the movement, emigration continued steadily until 1914. The population of Ireland decreased from 6,552,000 in 1851 to 4,390,000 in 1911.<sup>14</sup>

The memories of the famine years were never erased. To leave the country became the ambition of the youth of Ireland; and those who had survived the famine made no effort to discourage their offspring. In the far corners of the earth the exiles nursed an irradicable hatred which was transmitted from generation to generation. "It is probable," wrote Lecky, "that the true source of the savage hatred of England that animates great bodies of Irishmen on either side of the Atlantic has very little real connection with the Penal Laws, or the Rebellion, or the Union. It is far more due to the great clearances and the vast unaided emigrations that followed the famine."<sup>15</sup> This feeling was later capitalized; and an Ireland-beyond-the-sea played a prominent part in the events which followed.

In Ireland the depopulation brought about by the famine seemed at first to solve the problem of poverty. During the years preceding 1860 there was a slight increase in wages, a more steady employment, and due to the repeal of the corn laws, a more balanced diet. Arrears of rent became less frequent and the wholesale evictions of former years were no longer heard of. But the relief was only temporary for the return of bad seasons following the year 1857 revealed much suffering and made it apparent that as yet there was no real margin of subsistence for the Irish peasant.

This phenomenon is rather surprising in light of the changed aspect of the land problem. During the decade from 1841 to 1851 the total number of holdings had decreased

<sup>13</sup> Murray and Law, 153.

<sup>14</sup> *The Irish Year Book*, 1922, I.

<sup>15</sup> W. E. Lecky, *Leaders of Public Opinion in Ireland*, Vol. II, 184.

from 827,000 to 608,000.<sup>16</sup> Most significant, however, was the disappearance of over half of the uneconomic holdings—those under fifteen acres.<sup>17</sup> Conversely, and outwardly a good sign, the number of holdings over fifteen acres in size had greatly increased.<sup>18</sup> On the basis of statistics one would naturally conclude that the outlook of the post-famine peasant with a larger holding would be quite hopeful.

Such, however, as we have indicated, was not the case. The reason is readily understood when the motives of the landlord class are taken into consideration. During the years following the famine, due to foreign competition, the price of grain fell steadily and soon reached a point where, so far as Ireland was concerned, its cultivation became unprofitable. At the same time the price of livestock and of graziers' produce was rising. The landlords naturally hastened to complete the conversion of tilled land into pasture. Owing to this pressure, therefore, many of the pre-famine evils pertaining to the land system continued. It slowly dawned upon the peasants that, despite the famine, their lot was no better for tenure was uncertain and insecure. During the period from 1850 to 1870 there prevailed among the peasantry mingled feelings of despair and discontent.

<sup>16</sup> *Census of Ireland, 1871, General Report*. Figures for 1911 compiled from *The Irish Year Book, 1922*:

<i>Number of Holdings in Ireland 1841-1871</i>					
	<i>in acres</i>				
	<i>1 and under</i>	<i>1-5</i>	<i>5-15</i>	<i>15-30</i>	<i>over 30</i>
1841	135,314	310,436	252,799	79,342	48,625
1851	37,728	88,083	191,854	141,311	149,090
1861	40,080	85,469	183,931	141,251	157,833
1871	48,448	74,809	171,383	138,647	159,303
1911	112,787	47,619	125,818	123,129	163,221

Note: The entry of 112,787 for "one and under" in 1911 refers to garden plots, not holdings in the strict sense of the word.

<sup>17</sup> From 697,500 to 307,500.

<sup>18</sup> From 128,000 to 290,000.

*Laissez Faire in Land*

The Irish landlords had suffered severely during the famine. An oft-repeated statement has it that by the end of 1849 the tenants looked as though they had just come out of their graves, while the landlords looked as if they were just entering theirs. Roughly one-third were ruined and many others were in financial difficulties. During prosperous years many of them had encumbered their estates and had neglected to make provision against the time of stress. From 1845 to 1848, with the heavy burdens placed upon property and the falling off of rent rolls, the margin of profit had dwindled away and the mortgagees were unable to meet their interest charges. Many estates found their way into the Court of Chancery and many others were threatened with a similar fate.

It became quite obvious that so long as large portions of land remained in the hands of impoverished owners there could be no improvement in agriculture. "The land," wrote Scrope in 1849, "is in the hands of nominal and embarrassed proprietors, who either cannot or will not themselves improve their estates, or allow such terms of tenure as will induce others to improve them and carry on a spirited course of cultivation."<sup>19</sup> The English free-trader saw in this situation a crying need of an application of the principles of *laissez faire*. John Bright speaking in the House of Commons in 1849 expressed this opinion. "We must free the land, and then we shall discover and not till then, that industry, hopeful and remunerated—industry, free and inviolate, is the only sure edifice on which can be reared the enduring edifice of union and of peace."<sup>20</sup>

The apostles of free trade pointed out that land like any other commodity should be mobile and unfettered; and furthermore, that it was the duty of the government to remove

<sup>19</sup> Scrope, "The Irish Difficulty and How It Must Be Met," *Westminster and Foreign Quarterly Review*, January, 1849, 445.

<sup>20</sup> J. E. Thorold Rogers (ed.), *Speeches by John Bright*, I, 347.



all obstacles. They believed that new landlords could be found who, given the opportunity, would willingly undertake to improve the neglected estates. The impediments in the way of freeing the land were largely legal; estates were bound by family settlements, by entail and by complicated titles. Then, too, the transfer of estates was expensive and slow—the stamp duties were heavy and the cost of establishing title almost prohibitive. In one instance the search for title conducted by the Court of Chancery ran through sixty years. Only by cutting this Gordian knot of legal entanglement, it was argued, might economic prosperity be revived in Ireland.<sup>21</sup>

In July of 1849 an act was passed creating a special court, the Encumbered Estates Court, for the purpose of selling out embarrassed landlords.<sup>22</sup> Every creditor was permitted to enter a bid for such an estate and the ultimate purchaser was vested by the court with an indefeasible title. The new landlord received his land discharged of all claims except those recorded in the deed, and subject only to the leases held by occupying tenants. By way of making purchase more attractive, the court printed advertisements enumerating the permanent improvements on the estate, disregarding the fact that many had been carried out by the tenant.

From the standpoint of the government and the economists the act was a tremendous success. By the fall of 1857 the court had disposed of more than three thousand estates. To the surprise of the authorities over ninety per cent of the eight thousand purchasers were Irishmen. The sales amounted to £25,000,000 practically all of which passed to creditors.<sup>23</sup>

<sup>21</sup> *Speeches by John Bright*, I, 338-41.

<sup>22</sup> 11 and 12 Vict. c. 48.

<sup>23</sup> W. E. Montgomery, *The History of Land Tenure in Ireland*, 125; G. Sigerson, *Land Tenures and Land Classes of Ireland*, 188. In 1858 the Landed Estates Court was created with enlarged jurisdiction and permanent status. 21 and 22 Vict. c. 72. Its powers were extended to the sale of non-encumbered estates. In 1877 it was incorporated in the Supreme Court under the name of the Land Judges Court. Between 1850 and 1901 one-sixth of the soil of Ireland was transferred to new owners.

The insolvent class of landlords gave way to a group of owners who were prepared to manage their estates upon strictly business principles. There resulted a greater equalization in the size of estates and a more equal distribution of wealth among the landowning class. Professor Cairnes wrote, "of all measures passed in recent times it is that one of which the political benefits have been most widely and cordially recognized."<sup>24</sup>

From the point of view of the original owners the consequences of the act were not so roseate. The old landlords obtained but a fraction of that which their estates were really worth because the dumping of land upon the market naturally resulted in a collapse of values. Estates previously estimated at twenty years' purchase of the rents sold for half or even a third of that amount. "The effect of that single act of Parliament," wrote a contemporary economist, "was to take from landowners and their creditors property worth £25,000,000 . . . and to transfer that property to new owners for £10,000,000, thus confiscating property in Irish land to the extent of fifteen millions, by legislation ex post facto, a species of tyranny unexampled in any other free country in the world."<sup>25</sup>

Contrary to expectation the peasants had little reason to rejoice at the disappearance of so many of their old landlords, in spite of the fact that the new were Irishmen. "The new landlords were more active and effected more improvements in the land than their encumbered predecessors, but they were less indulgent to their tenants; old traditions of liberality were disregarded and the new landlords were disposed to exact the full value of the land."<sup>26</sup> Many of the new owners were in a sense speculating in land; and their ability to retain

<sup>24</sup> J. E. Cairnes, *Essays in Political Economy*, 173-9.

<sup>25</sup> G. Fitzgibbon, *The Land Difficulty in Ireland*, 55.

<sup>26</sup> M. Longfield, "Land Tenure in Ireland," 6, 7, in *Systems of Land Tenure in Various Countries*. Longfield was an arch free-trader.



it depended upon exacting the highest possible rents and insisting upon prompt payments.

The government, intent upon its hypothesis that an economic regeneration would take place, endeavored in every way to lend its assistance to the now solvent landlord body. When the new landlords insisted, for instance, that the remedy of ejectment for arrears be made applicable to yearly tenants, in 1851 the Civil Bills Act was passed granting that power to the landlords in the case of every tenant whose rent was less than £50.<sup>27</sup> From the point of view of the government one more obstacle to free trade in land was removed, but the peasants felt aggrieved because one of their customary rights had been extinguished.

In 1860, in the Deasy Act, the government completed its scheme of reducing land relationships to a free-trade basis by specifically designating all letting agreements as contracts.<sup>28</sup> "The relation of landlord and tenant shall be deemed to be founded in the expressed or implied contract of the parties and not upon tenure or service, and a reversion shall not be necessary to such a relation, which shall be deemed to exist in all cases in which there shall be an agreement by one party to hold land from or under another in consideration of rent."<sup>29</sup> In other words in letting a tenancy the owner was simply hiring out the use of land as he might hire out a plow or any commodity; while the tenant henceforth hired the land for a specified time at a stated price. If the terms of the contract were broken, the tenant thereupon forfeited his right to hold the land. That was classic free-trade doctrine.

Whatever customs had formerly prevailed in regard to the holdings of land were henceforth abolished and, as we shall see shortly, they were of considerable import to the tenants. By this act, however, the landlord acquired the absolute right

<sup>27</sup> 14 and 15 Vict. c.

<sup>28</sup> 23 and 24 Vict. c. 154.

<sup>29</sup> *ibid.*, Sect. 154.

to dispose of his property as he saw fit. Lord Dufferin, a large landowner, stated the new situation very precisely. "At the present moment the owner of landed property in Ireland holds it in exactly the same sense . . . as the owner of property in England. He can sell his interest in it, he can let it, he can cultivate it himself, as he may please, so long as he does not infringe existing contracts or the laws of his country. A tenant on the other hand is a person who does not possess land, but who hires the use of it. . . . Experience teaches him that by expending a certain amount of labor and capital in the cultivation of the soil, he is able to get back within a limited period not only the original capital he has expended, but also a profitable rate of interest upon that capital. . . . The tenant's interest in the farm he hires is quite as limited in its character as the trader's interest in the ship he charters. The voyage concluded, the lease expired, both ship and field revert to their respective owners. The tenant's claim to occupation being necessarily then of a terminable character, he has no right to complain if his landlord finds it advisable, on the expiration of his term, to confer on another advantages similar to those he has hitherto enjoyed. One of the landlord's most important duties is that of insuring the consummate cultivation of his estate, and to hold him up to obloquy because he makes a point of weeding his property of men whose want of energy, of skill, or capital, renders them incapable of doing their duty by their farms, and replacing them by more suitable tenants, is hardly reasonable."<sup>30</sup>

By 1860 the power of the Irish landlord was at the zenith. He was enabled by law to dispose of his property as he saw fit. At the end of the current year the great mass of tenancies were legally terminated and there was no obligation binding him to continue the occupiers in possession. If it were desirable the landlord would make a new contract with the tenant,

<sup>30</sup> Lord Dufferin, *Irish Emigration and the Tenure of Land in Ireland*, 183-90, *passim*.

but if he saw fit he might cast him off. In the eyes of the government there had been two obstacles in the path of that handmaid of progress, free trade: parasitic landlords and irresponsible tenants. The first were uprooted like dead trees, while the weeding of the second was entrusted to those whose material prosperity rested in large measure upon the cardinal economic theory of the age.

### *Tenant Right*

"Victorian economics were vitiated, like so much else Victorian by stolid adherence to rule of thumb. The Victorians were always suffering for their faith that a principle, once discovered, must needs be of universal application."<sup>31</sup> A generation which eagerly accepted Cobden's dictum that free trade was the international law of the Almighty had little reason to suspect the infallibility of the free-trade doctrine in any sphere that pertained to goods and services. Thus the application of the doctrine to Irish land as described above was complacently regarded as a positive good. The tangled and irritating web of outworn feudal ties and assumptions had been removed, and a miracle—the resurrection of Ireland—was at hand. But as a later economist observed, "it was never realized that a rule which may be obvious equity in one society may work wrong in another."<sup>32</sup>

The attitude of Englishmen toward the problem of the Irish peasant before the famine might be characterized as indifferent; but after the famine as mistaken. "We had got a set of institutions of our own," wrote Mill in 1868, "which we thought suited us—whose imperfections we were, at any rate, used to; we, or our ruling classes, thought that there could be no boon to any country equal to that of imparting these institutions to her, and as none of their benefits were any longer withheld from Ireland, Ireland, it seemed, could

<sup>31</sup> E. H. Dance, *The Victorian Illusion*, 83.

<sup>32</sup> Montgomery, 125.

have nothing more to desire. What was not too bad for us, must be good enough for Ireland, or if not, Ireland or the nature of things must be at fault.”<sup>33</sup>

Regardless of the merit of the institution of free trade, it takes but a moment's reflection to realize that so far as Ireland was concerned, free trade in land was ill-adapted. In England the situation was such that the landlords were competing with one another to obtain tenant farmers. If the terms were too high, if the farm buildings were in poor repair, or if the land were run out—the farm would not find a tenant. Moreover, if rents were universally too high, the exodus from country to town was quickened. In other words there existed the absolute freedom of contract for tenant as well as for owner. In Ireland, however, no such freedom existed. Land was at a premium, and in the absence of other channels for labor, the peasant was compelled to accept the terms which the landlord proffered.

During the decade from 1860 to 1870, economic circumstance began once again to press upon the peasants. Wages remained stationary while the cost of subsistence slowly rose. In 1860 there were 160,000 seeking poor relief and in 1870 there were 289,000 applicants. Meanwhile, the area of land under the plow diminished by 400,000 acres, while pasture increased by 560,000 acres.<sup>34</sup> All in all in this process of consolidation some fifteen thousand tenant holdings were extinguished.<sup>35</sup> Thus in 1870, much to the chagrin of the devotees of the gospel of *laissez faire*, it became clear that many of the old vicious tendencies were at work. The peasants were dissatisfied and discontented, not because they were aware of the

<sup>33</sup> Mill, *England and Ireland*, 8.

<sup>34</sup> *Hansard*, Vol. 149, 340-2. Conversion from tillage to pasture continued. In 1851, there were 4,612,000 acres of tilled land, in 1886, 2,940,000. Under grass, 8,749,000 and 10,160,000, respectively; under clover and meadow, 1,246,000 and 2,000,000. Exports of cattle increased from 246,000 in 1847 to 640,000 in 1885 and sheep from 259,000 to 629,000.

<sup>35</sup> R. B. O'Brien (ed.), *Two Centuries of Irish History*, 486 n.

forces at work, but because under the new régime they saw themselves systematically deprived of rights in the soil which had given them at least some measure of protection.

In regard to the free-trade legislation of the post-famine period Mill wrote: "It ought to have been remembered that the opinions, feelings, and historical antecedents of the Irish people are totally different from, and in many respects contrary to, those of the English; and that many things which in England find their chief justification in their being liked, cannot admit of the same justification in a country where they are detested."<sup>36</sup> The Irish tenants felt that by the Deasy Act Parliament had taken from them rights in the soil for which the contractual theory of rent gave no equivalent.

Customary rights are difficult to describe since they are never clearly defined and in addition they vary somewhat from locality to locality. The plausibility of folk customs is better understood if one realizes under what circumstances they originally took root. To the Irish peasants landlordism was essentially foreign for a system of real property in land had never developed among them. The Irish conception of property rights arose from the universal practice among early tribes of the chieftain acting as the custodian of lands that were held in common ownership. The individual who undertook to till a portion of land immediately became endowed with rights in the soil which for the time being could not be interfered with. The right to hold land, in the Irish mind, was synonymous with the working of it. "He who sows shall be allowed to reap" was the underlying thought.<sup>37</sup>

This feeling persisted into the nineteenth century and it explains the otherwise paradoxical attitude of the peasantry in regard to tenure. Englishmen were unable to understand the unwillingness of the Irish tenant to sign a yearly contract; much less his preference for tenancy at will rather than

<sup>36</sup> Mill, *England and Ireland*, 9, 10.

<sup>37</sup> *ibid.*, 11, 12.



a long lease. Montgomery, on the basis of evidence brought to light by the Bessborough Commission states that the tenants considered tenures of long duration as a derogation of their rights in the soil, while they regarded a year-to-year tenancy as unlimited in extent.<sup>38</sup> Until the passage of the Deasy Act, few Irish tenants had signed written agreements.

The Irish tenant believed that he had a right to the use of the soil in perpetuity. The imposition of landlordism upon the soil had necessitated the payment of rent which, of course, the tenant was not in a position to deny. But any further exaction he undoubtedly resented. Acting upon the assumption that the land was his to use forever (subject to a rent which to him must have resembled a charge upon the land somewhat like a quit rent), the tenant took the initiative and made all the improvements necessary to till it properly. He not only manured but he built the fences, drained the soil, and erected barns and other outhouses. In this way he came to believe that he had a definite interest in the holding; an interest certainly as important as that of his landlord who had contributed nothing. He believed also that he might dispose of that interest as he saw fit; he might bequeath it to his children, or he might sell it if he were going to quit the holding. Finally, he assumed that when the landlord transferred his property to a new owner that his rights could not be interfered with, so long as he continued in the payment of the rent. This group of assumptions—this tenant right—was not recognized by law.<sup>39</sup>

Before the famine many owners endeavored not to violate the tenant right so long as the rent was paid. On estates where the customs were violated, especially by the confiscation of improvements, the tenants returned the land run out, much to the detriment of agriculture. As Judge Longfield remarked: "The real grievance was, not that the tenant fre-

<sup>38</sup> Montgomery, 105-6.

<sup>39</sup> *idem*.



quently lost the value of his improvements, but that the liability to this loss generally prevented him from making those improvements which would have been profitable to himself and useful to the country."<sup>40</sup> The practice of eviction was regarded by the tenants as particularly obnoxious. The payment of rent was accepted as a *modus vivendi*, but upon many estates it was not enforced with any degree of regularity. "I have known many estates," wrote Longfield, "in which no payment was ever settled between landlord and tenant. Payments were made from time to time, but the tenant cared very little whether they were placed to his credit or not."<sup>41</sup> On estates where the landlord had failed to win the goodwill of the tenantry, and especially upon those which countenanced evictions, the payment of rent developed into a contest between the landlord and the tenant, the latter paying just enough to avoid an action but not a shilling more.

The application of the principle of free trade in land outraged the feelings of the tenantry since laws promoting prompt ejectment and laws reducing tenure to a matter of legal contract practically destroyed the time-honored notions of tenant right. This was the principal reason why there was no social peace in Ireland despite the great exodus that took place after the famine. Every tenant upon the land felt insecure in the occupation of his holding. "Let any Englishman put himself in the position of an Irish peasant, and ask himself whether, if the case were his own, the landed property of the country would have any sacredness to his feelings. Even the Whiteboy and the Rockite, in their outrages against the landlord, fought for, not against, the sacredness of what was property in their eyes; for it is not the right of the rent-receiver, but the right of the cultivator, with which the idea of property is connected in the Irish popular mind."<sup>42</sup>

Tenant right was known and valued throughout Ireland by

<sup>40</sup> M. Longfield, *Tenure of Land in Ireland*, 65.

<sup>41</sup> *ibid.*, 19.

<sup>42</sup> Mill, *England and Ireland*, 13.

the peasants, but nowhere was it sanctioned by the landlord class except in the province of Ulster. Elsewhere it had to be defended, and since it was not recognized by the courts, it was defended by illegal actions.<sup>43</sup> The Devon Commission Report gives us an interesting picture of the situation which existed. "It was not easy for a man when building a house, and thereby investing his property permanently in the land, to imagine that he had still in equity only a year's title; that he might with justice be removed at the end of that year, leaving his investment behind him, and that he was to think no more of the matter. As the principle affected the great mass of the people, all were interested in inventing a remedy. The remedy was a simple one. Failing that equitable settlement which was neglected by the landed proprietor, it was only requisite to appeal to lynch law, and to extort a payment by intimidation from the incoming tenant with great injury to the latter, and, through him, to the proprietor. This court of appeal did not feel bound to measure the payment in reference to the extent of improvements effected, but as deciding on a case affecting their own interests; and in the determination to maintain 'fixity of tenure' the sum was calculated to discountenance such proceedings, whether improvements were made and unliquidated investments left behind, or on the contrary much arrear had accrued to the outgoing tenant, and much injury had been done by him to the premises."<sup>44</sup>

In Ulster it was not necessary to have recourse to violent and illegal action, for there the landlords for several centuries had accepted the presumption that tenant right was both just and reasonable. Indeed, so strong was the public sanction of the Ulster Custom that no landlord, even with the consent of

<sup>43</sup> In *Stevenson v. Lawson*, T. R. R. and L. A., 135, Judge J. Lawson argued that such customs "could not have been recognized by the courts as legal customs, because they were inconsistent with the contract and uncertain."

<sup>44</sup> *Report of the Devon Commission*, 159.

his tenants, dared violate its usages; and furthermore a tenant who deliberately waived that right was deemed to have committed a grievous offense against his fellows. Violation of the Ulster Custom on anything like a large scale would have given rise to a fierce class war.<sup>45</sup>

On account of its recognition, tenant right had become crystallized in Ulster and lends itself easily to analysis. A knowledge of the Ulster Custom with all its implications is important because both reformers and legislators, when Irish agrarian grievances were examined, ultimately accepted it as the model. The attributes of the custom were as follows: 1—The right or custom in general of yearly tenants to continue in undisturbed possession of the holding so long as they act properly and pay their rents; 2—The usage or custom of the yearly tenants to sell their interest if they did not wish to continue in possession or if they became unable to pay their rents; 3—The usage or custom of the yearly tenant to transfer to his assignee or to leave to his heir all the interest in the farm which was recognized by custom to reside in him.<sup>46</sup>

It must not be supposed that even by the Ulster Custom the landlord sacrificed his property rights. These were simply limited for the benefit of the community as a whole. The landlord, for instance, was permitted to raise the rent with the natural increase of the value of his property, but on the other hand he was not permitted to extinguish the tenant's interest by fixing a rack rent. In practice the tenant was assured a "fair," rather than a competitive rent, by an impartial valuation of the holding by competent parties at regular intervals. "The revaluation . . . was always made by

<sup>45</sup> W. Morris, *Present Irish Questions*, 137.

<sup>46</sup> For accounts of the Ulster Custom see especially R. B. O'Brien, *The Irish Land Question*, 130-67; A. Richey, *The Irish Land Laws*, 100 ff. Cherry, Wakeley and Maxwell, *The Irish Land Laws and Land Purchase Acts*, 161-4, contains a valuable legal treatment. The above analysis is based upon the opinion of Judge Blake in *Graham v. Erne, Donnell's Reports*, 405. See also the case of *M'Elroy v. Brooke*, 16 L. R. Ir. 74-5.

a professional valuator, or at least one in whom both parties had confidence, who valued the farm, having reference to the fair value of the ground, exclusive of the buildings and tenants' improvements."<sup>47</sup>

The landlord had the right within certain limits of rejecting the tenant to whom the land was being assigned. Ordinarily the outgoing tenant was accorded complete liberty in the choice of a successor, but in cases where there existed a doubt as to the ability of the proposed tenant to meet his obligations, the landlord was permitted to exercise a veto power. The interest which an outgoing tenant sold to the incoming tenant consisted of two elements: first, the value of the improvements on the holding, and secondly, an intangible but equally important element designated as "goodwill." The outgoing tenant pocketed the sum received subject only to the landlord's claim of rent in arrears or other neglected obligations. The price paid for the tenant interest was regulated in various ways: on some estates the landlord fixed it; on others it was limited to a certain number of years' rental of the holding; and on others the tenant enjoyed the privilege of free sale, frequently putting up his interest at auction. In Londonderry the price is said to have varied from five to twenty years' rent, or £6 to £24 an Irish acre; in Antrim and Down seven or eight years' rent, or from £30 to £40 an acre. In exceptional cases the tenant interest sold for seventy to eighty years' purchase. This property, absolutely unprotected by law, was estimated over all Ulster at a value of £20,000,000.<sup>48</sup>

Finally, the landlord was permitted to buy in the tenant right providing he paid the full value of the tenant's interest. In Ulster the confiscation of the tenant's improvements was not tolerated. Lord Dufferin, believing that the incoming tenants paid so high a price for the tenant right that they

<sup>47</sup> Richey, 106. That the land should be valued irrespective of the tenants' improvements was held to be an incident of the Custom. *Carraher v. Bond*, 6 Ir. L. T. R. 19. See also Cherry, Wakeley and Maxwell, 162.

<sup>48</sup> R. B. O'Brien (ed.), *Two Centuries of Irish History*, 489-90.



had little or no capital left to cultivate the holding properly, extinguished the tenant right upon his estate, but at a cost of £9,000.<sup>49</sup>

The benefits which the community derived from the Ulster Custom is remarked by all contemporary Irish writers. An acre of land under crop in Ulster was valued at £6 3s., while for the rest of Ireland it was only £5 18s.; and yet since the time of Charles I Ulster lands had been considered the least fertile in Ireland. Again, during the period from 1779 to 1869 the rent receipts in Ulster increased from £990,000 to £2,830,000, whereas in the rest of Ireland the increase was from £5,000,000 to £9,000,000.<sup>50</sup> In other words where the customs of the country had been respected prosperity had resulted; the quality of agriculture was better and both landlord and tenant were able to profit from the land.

Security of tenure, then, was the key to a higher standard of living in Ireland. Sharman Crawford, an Ulster landlord, has given a most vivid account of the various advantages which the Ulster tenant enjoyed and other Irishmen did not. "On estates which adopt the tenant-right principle the rent charged is always considerably below the rack rent. It is calculated so as to leave the tenant his fair proportion of all profits deduced from the culture of the soil; to afford him the means of a comfortable living and the means for the improvement and the cultivation of the farm, and at the same time allowing to the landlord a fair proportion for the use of that which he supplies, namely, the land itself and that alone—as the landlord supplies nothing but the land itself in its bare unimproved state, without housing or farming appurtenances of any kind. The lands are never put up to what in the west is called *cant*, meaning thereby a kind of auction bidding; they are never subjected to competition; the rent is fixed from time to time by valuation, according to the custom of the

<sup>49</sup> *Hansard*, Vol. 149, 1452-3, and Vol. 150, 775.

<sup>50</sup> *ibid.*, Vol. 149.

estate. On these grounds I have called the connection, produced between the landlord and tenant under this system, a partnership; which cannot be dissolved without an adjustment of the claims of the working partner, and under which the payments of the latter, which are termed rent, are settled on the basis of the fair consideration of mutual interests. . . . The tenant feels himself secure in the permanent occupation of the premises, and in this confidence, whether he has a lease or no lease, he proceeds with his improvements and his buildings, and applies his industry in every form by which his comforts or his profits can be increased. And hence springs that very industry which has caused the production of superior crops from bad land. But although the rent is regulated on the most moderate principles of valuation, nevertheless it is a full rent as compared with the intrinsic value of the land. The industry of the people, excited by moderate rents and security of possession, creates a value far beyond the productive value of the soil from its natural qualities. To define tenant right in the fewest possible words, it is practically a letting in perpetuity subject to a revaluation of the rent from time to time. Thus every tenant holding under this custom may be considered as a peasant proprietor; and from hence, it appears to me, arises that same prosperity in this portion of Ireland, which is found to exist in other countries where the occupier of the soil has all the advantages which the interest of ownership creates.”<sup>51</sup>

During the period from 1850 to 1870 the peasants, then, felt aggrieved and came to regard their landlords with distrust. In truth they could hardly be expected to concur in a system which for them meant insecurity of tenure. In the only region where customary rights were permitted anything resembling free play, there was agricultural prosperity. Contrast the two situations: on the one hand there was the subtle

<sup>51</sup> S. Crawford, *Depopulation Not Necessary*. Quoted in G. O'Brien, 113-14.



withdrawal of customary privileges, the ceaseless demand for higher rents, the perennial notice to quit and the cruel eviction; while on the other the tenants enjoyed within reasonable bounds security of tenure, fair rents, the recognition of their interest in the holding and the right to sell or to bequeath that interest. And the irony of the situation lay in the fact that twenty years were wasted in the effort to superimpose upon the country a theory whose implications in regard to land relationships had never been tested; while the remedy lay in certain homely customs which were cherished by the victims of the experiment.

## CHAPTER III

### GOVERNMENT INTERFERENCE 1870

#### *Efforts in Parliament*

TO THE Irish landlords tenant right was obnoxious because in it they saw an infringement of the just rights of property. Such practices as were countenanced in Ulster shocked them exceedingly—and in Parliament the propertied classes sympathized with their determination to uphold every right of the owner. Each claim of tenant right was regarded as a violation of their rights; and furthermore the admission of a single one meant a corresponding diminution of power. To grant that there could be no eviction except for non-payment of rent; to permit a periodic revaluation of the rent charge; to admit the principle of compensation for improvements; to countenance the existence of an “occupational right”; to acquiesce in the right of the tenant to sell or bequeath an interest in the holding—in fact, to grant any of these claims would mean a limitation of the absolute right of the owner to dispose of his property as he saw fit. To admit all of them would be to acknowledge the existence of a coownership in the property. To the propertied classes, as Palmerston phrased it, Tenant Right meant Landlord Wrong.

While the government was endeavoring to revive Ireland by means of the *laissez-faire* formula, individuals in and out of Parliament were striving to obtain an amelioration of the land system. The outlook was discouraging for in attempting to gain the legalization of the Ulster Custom for all Ireland the reformers not only antagonized the landlords but also incurred the displeasure of a government whose policy was

to regard all such rights as obstacles in the way of free and unrestricted trade in land.

During the years preceding the famine, reform of the land system was urged principally by three men: William Conner, described by Mill "as the earliest, most enthusiastic and most indefatigable apostle" of land reform; Sharman Crawford, a practically minded Ulster landlord; and Poulett Scrope, the radical member from Stroud.<sup>1</sup> Outside of Parliament, together with Irish writers, the chief advocates of reform were a small group of liberal economists among whom were de Beaumont, von Raumer and especially Mill.<sup>2</sup> The *sine qua non* of them all was the recognition of the Irish customs, in part or in whole.

The proposal of William Conner is interesting as it represents the view of an early and a radical reformer. He urged that the tenant's rental should be determined by a jury and once fixed the tenant should be regarded as holding in perpetuity provided only that the rent payments were met. Crawford's ideas approximated more closely the Ulster Custom, permitting a reversion to the landlord at the expiration of the tenancy, but on the express condition that the tenant be paid a sum of money in compensation for his surrender of the "occupational rights" (goodwill) and for the value of all unexhausted improvements upon the holding. Crawford strove incessantly, though in vain, for many years to accomplish his objects. "In 1835," said Chief Secretary Fortescue on the floor of the House thirty-five years later, "Sharman Crawford, a name that ought never be mentioned in this House in connection with this subject, without honor, first introduced the subject into the House; and, for the most part in his hands, the question was carried on until the end of 1852."<sup>3</sup>

<sup>1</sup> Mill, *Irish Land Question*, 88; Elliot (ed.), *Letters of John Stuart Mill*, Vol. I, 147.

<sup>2</sup> In *L'Irlande sociale; England in Jahre 1835*, Vol. II, 404; and *Irish Land Question*, 88, respectively.

<sup>3</sup> *Hansard*, Vol. 149, 1434.

Daniel O'Connell and Sharman Crawford differed in their politics and were not good friends for the latter publicly denounced the tribune as a blusterer. In consequence Crawford received little aid from what should have been a friendly quarter. In Parliament his scheme, first introduced in 1835, received but slight consideration. In 1843, when Ireland was described as being in a "perfect pandemonium of unrest," Sir Robert Peel's government proceeded to apply the usual measure of coercion. Against this policy Crawford protested vehemently. "A great cause of the agrarian offenses," he said, "arose from the circumstances connected with the possession of land, and from the relationship between landlord and tenant. This was little understood in this country by the country gentlemen. It was the system of oppression by Irish landlords which caused the disposition among the people to agrarian outrages."<sup>4</sup> Through Crawford's exertions the government was prevailed upon to appoint a commission to inquire into the relations of landlord and tenant.

The Devon Commission is known to posterity largely because of the evidence, to the extent of four huge Blue Books, which it presented in 1845—a silent witness to the conditions under which the Irish peasants lived and labored at the time of the famine. Lord Devon was a large landowner of moderate views and his coworkers were men of experience. Their recommendations were not radical, and indeed had they been accepted the land question would not again have come before Parliament—at least such was the opinion of Gladstone in 1870.<sup>5</sup>

Since the commissioners were Irish landlords it was taken for granted that they would disagree with the tenants in their claim of a joint ownership. In speaking of the Ulster Custom in their report, however, their views were far from reactionary. "Anomalous as the Custom is if considered with reference to all ordinary notions of property, it must be admitted

<sup>4</sup> *ibid.*, 1012.

<sup>5</sup> *ibid.*, 334.

that the district in which it has prevailed has thriven and improved, in comparison with other parts of the country; and although we can foresee some danger to the just rights of property from the unlimited allowance of this tenant right, yet we are sure that evils more immediate and of a still greater magnitude would result from any hasty or general disallowance to it.”<sup>6</sup>

The recommendations of the commissioners were far in advance of Parliamentary opinion, for in spite of the cautious language in which they were couched, they certainly transgressed the bounds of the just rights of property. “Although it is certainly desirable that the fair remuneration to which a tenant is entitled for his outlay of capital, or of labour, in permanent improvements should be secured to him by voluntary agreement rather than compulsion by law; yet upon a review of all the evidence furnished to us upon the subject, we believe that some legislative measure will be found necessary in order to give efficacy to such agreements, as well as to provide for those cases which cannot be settled by private arrangement.”<sup>7</sup> The commissioners were of the opinion “in the present state of feeling in Ireland no single measure can be better calculated to allay discontent and to promote substantial improvement throughout the country.” Since the landlords had manifested no willingness in making expenditures of capital in the direction of bettering the quality of agriculture, the investigators came to the conclusion that the tenants should be given a trial. In such an event it was only fair that the tenants’ investment should be protected by law. In regard to existing improvements, however, the commissioners adhered to the conservative point of view. They would sanction no interference by the government, leaving the whole matter in the hands of the landlord.

A definite proposal in regard to future improvements,

<sup>6</sup> *Report of the Devon Commission*, 1120.

<sup>7</sup> *ibid.*, 1124-5.



however, was reported. With the consent of the landlord the tenant might undertake certain improvements. Should the landlord thereafter within thirty years disturb the tenant or raise his rent, the latter was entitled to claim compensation. The commissioners went so far as to provide that where a landlord refused to countenance improvements, the tenant might take the matter to court; and if the court decided that the proposed improvement was necessary to the cultivation of the farm, it might grant the tenant permission to act. This was in principle an infringement of the rights of property, but as the maximum cost of such improvements might not exceed £3, the matter was not serious. In fact the commissioners believed that if their measures became law the landlords would be inclined to carry out every improvement rather than permit the tenant to take the matter into his own hands.<sup>8</sup>

The reformers were so heartened by the recommendations of the Devon Report that during the period from 1845 to 1870 constant efforts were made to give them effect. The bills of Irish members boldly demanded an unqualified recognition of the Ulster Custom for the whole of Ireland. At the opposite side of the pole, the bills brought in by the members of either party were uniformly mild. Legislators were haunted by the thought that they might be suspected of attempting to violate property rights; a thought which persisted for twenty-five years to the detriment of progressive legislation. On the other hand, however, there was the feeling that something might be accomplished.

In 1845, Lord Stanley introduced a measure enabling the tenant—even without his landlord's consent—to fence or drain his holding, or to erect farm buildings. A scale of compensation was provided by which the tenant was permitted to claim compensation for thirty years, one-thirtieth of the value of the improvement being deducted for each year of enjoy-

<sup>8</sup> *ibid.*



ment, on every building erected. Similar compensation for fencing (up to twenty years) and draining (up to fourteen years) was contemplated. Although referring only to future improvements, the bill was rejected. Of significance is the fact that upon the introduction of the measure thirty-six peers holding land in Ireland registered a declaration that the bill was destructive of the rights of property. A year later Lord Lincoln's bill providing the payment of compensation for unexhausted improvements left behind by an out-going tenant was rejected; in 1848 and again in 1850 Sir William Sommerville's measures for compensation for future improvements failed to pass.

Meanwhile, Sharman Crawford had persisted in his demand for the legalization of tenant right, but his proposals were those of a private member without a following and had no chance of success. The Irish organization had been of no help to Crawford and the prospects of assistance were even more gloomy after O'Connell's death in 1847. The Repeal Association split into two groups, conservative and revolutionary. The flare of Young Ireland—the radical wing—though prominent in Irish annals, served the country no good. Crawford could expect little aid from these self-styled representatives of the Irish people, regardless of affiliation.

Late in 1849, however, this period of indifference came to an end. The cruel evictions of the famine years gave rise to a number of tenant protective societies, the first of which, adopting as its slogan: "Property has its duties as well as its rights," was founded at Callan in County Kilkenny. The movement might have come to naught had it not been taken up with great enthusiasm in the northern counties. In Ulster the famine had left scars; and during the period of distress following, a number of landlords had dared to violate the Ulster Custom. These tenants, too, were suspicious of the Encumbered Estates Act of 1849, for it contained no provision safeguarding their tenant right.

In the spring of 1850 no less a body than the Presbyterian Synod of Ulster adopted a petition praying Parliament to "secure to the tenant farmer of Ulster in all its integrity, the prescriptive usage of that province known by the name of tenant right." It was furthermore resolved that the rights and securities common to the Ulster tenants ought to be extended to all Ireland.<sup>9</sup> A circular signed by John Gray, proprietor of the *Freeman's Journal* and an Anglican; by Samuel Greer, an Ulster Presbyterian; and by Frederick Lucas, proprietor of the *Tablet* and a Catholic; was printed in all the Irish newspapers. "A conference," it read, "is about to be summoned in Dublin in which the tenant societies of the four provinces will have an opportunity of comparing their views and taking measures together. The parties who have united in summoning it belong to all sections of the popular party, and have nothing in common but a common desire to bring this question to a satisfactory settlement. Their circular is about to be sent to all existing tenant societies, to the popular journalists, and to the most active and most influential friends of tenant right in localities which have not yet been organized."<sup>10</sup>

This conference met in Dublin from August 6 to 10 and before it adjourned there was founded the Irish Tenant Right League, pledged to the election of a group in Parliament which would press forward the objects of the League. These aims were: 1—the determination of a "fair rent" by valuation—such valuation to be exclusive of any improvements by the tenant; 2—security from disturbance so long as the valuation rent was promptly paid; 3—the right of the tenant to sell his interest with all its incidents, i.e., improvements and good will; 4—a provision of relief for arrears of rent which had accrued during the famine.<sup>11</sup>

<sup>9</sup> A. M. Sullivan, *New Ireland*, 203.

<sup>10</sup> *ibid.*, 204-5.

<sup>11</sup> Sullivan, 205, 206; R. B. O'Brien (ed.), *Two Centuries of Irish History*, 437.

In an address to the House of Commons John Bright said of the Convention of 1850: "Now, sir, without agreeing to all that has been said and done by that conference, we cannot shut our eyes to the fact of its importance, and that it will be a means of evoking a more formidable agitation than has been witnessed for many years. Instead of the agitation being confined, as hitherto, to the Roman Catholics and their clergy, Protestant and dissenting clergymen seem to be amalgamated with Roman Catholics at present; indeed there seems to be an amalgamation of all sects on this question, and I think it time the House should resolutely legislate on it."<sup>12</sup>

In February of 1852 the Whig ministry of Lord Russell was overthrown and during the summer a general election took place. Thousands of Irishmen defying both landlords and party tradition gave their votes to Tenant Right candidates. A new parliamentary party, fifty strong, was the consequence. Its members agreed upon a policy of independent opposition, pledging themselves to enroll in no English party and to refuse office if tendered. Only too often had Irish unity been broken by the timely dispensation of administrative favors.<sup>13</sup>

The Tenant Right party had, however, reached its zenith for Russell's Ecclesiastical Tithes Bill had given rise to a "no popery" outburst in Ulster and the interposition of a religious issue led to the withdrawal of ten men from the party. None the less, the rump, forty strong, met in Dublin and resolved "to hold themselves perfectly independent of and in opposition to all governments which do not make it part of their policy a Cabinet question, to give the tenantry of Ireland a measure embodying the principles of Mr. Sharman Crawford's Bill."<sup>14</sup>

Meanwhile, in Parliament a committee including John Bright had been appointed to inquire into the state of cer-

<sup>12</sup> Sullivan, 207.

<sup>13</sup> *idem*.

<sup>14</sup> *idem*.

tain disturbed areas in Ireland. Among their recommendations were proposals for the consolidation of laws relating to landlord and tenant; and particularly one to safeguard tenants undertaking permanent improvements against loss. Nothing was done about the matter by the Whigs, but in November Sir Joseph Napier, the Irish attorney general in the Derby government, brought in a set of proposals which caused the hearts of the Tenant Right group to beat high.

Had the Napier scheme been passed, "joint ownership" would have received legal sanction. For the first time an English government accepted the principle of compensation for existing as well as for future improvements. Napier's policy was a broad one, for in addition to dealing with the problem of tenant right it included measures for simplifying the landlord-tenant law; and others enabling owners to borrow money for the improvement of their estates. A proposal, later embodied in the Deasy Act of 1860, to place the relation of landlord and tenant upon a contractual basis, was also included in Napier's plans.

The Tenant Right party at once entered into negotiation with the government, promising their support if their proposition were referred along with the ministerial measures to a select committee. Although the Tenant Right group held the balance of power between the parties, Derby was compelled to reject their advances since the Tory Irish group was unanimously opposed to such an alliance. In the House of Lords the Earl of Roden asked sarcastically whether it was the intention of the government to give sanction to "proposals of so communistic a nature." Derby agreed that the Tenant Right proposals were destructive of the rights of property, and Sergeant Shée's bill was thrown out. The enraged Tenant Righters then proceeded to wreck the Derby government; but they in turn collapsed as a reform party. Keogh, Sadleir and other place-hunters among them accepted administrative posts in the succeeding Aberdeen government. "It was the misfor-



tune of Ireland throughout this period to possess no leader capable of uniting the people or even their representatives. She suffered from the lack of men who could stand by one another and who had faith in their cause.”<sup>15</sup>

During the next few years both the ideas of Napier and the Tenant Right party were heard in the House, but there was no driving force behind them and no government interested enough to harbor them. Palmerston regarded the Tenant Right principles as sheer robbery—a scheme to transfer the property of one set of men to another and a different class—and would have nothing to do with them. In 1860, however, two acts were passed: the Deasy Act and the Cardwell Act. The first, as already noted, made the contract the medium of the landlord and tenant relationship, but it was not, as Napier intended it to be, coupled with an act protecting the tenants from the confiscation of their improvements. The Cardwell Act was another makeshift. It aspired to carry into effect the Irish customs without infringing in any degree upon the rights of property—an impossibility. What this law in practice amounted to was to grant the tenant permission to make certain improvements; the nature of the compensation being fixed in each instance. The consent of the landlord was a *sine qua non* in every case. An amendment giving the county chairman the right to overrule the landlord’s refusal had been rejected summarily. The law was a total failure; for landlords uniformly refused to give assent to the proposals which the tenant placed before them. Landlord power in 1860 was practically impregnable.

The issue was not to be forever postponed, for the tenants of Ulster soon came to regard the Deasy Act as a further thrust against their custom; and the radicals in Parliament began to cry out against the futility of the *laissez-faire* experiment. In 1864 Lord Kimberly in the House of Lords gravely stated: “It is impossible for England to perform its

<sup>15</sup> R. B. O’Brien, *Two Centuries of Irish History*, 449.

duties to Ireland as long as no attempt is made to deal with the important question of the tenure of land. I implore the landed proprietors not to pass it by. The landed proprietors are supported by the force of the United Kingdom in a position, which, I am convinced if Ireland stand alone, they could not possibly maintain, and this country is strictly responsible for seeing that its military force is not applied in perpetuity to save the landlords from measures which they have neglected to provide and which otherwise might be forced upon them.”<sup>16</sup>

From 1859 on, while Parliament was turning its attention to Italian and Polish affairs, there occurred in Ireland a series of bad seasons, accompanied as usual by an outburst of evictions and agrarian crimes. In 1866, Parliament was forced once again to face the eternal land question. Two feeble and futile efforts were made to remedy conditions; one by the Liberals and one by their opponents. These were the last attempts made to correct the most flagrant evils of insecurity of tenure without interfering with the landlord's absolute dominion. Both the bill of the Liberal chief secretary, Fortescue, and that of the Tory Lord Naas had for their object the encouragement of improvements by the tenant, promising him security for his industry; while at the same time leaving in the hands of the landlord the power of arbitrary eviction and in general the uncontrolled right to do as he pleased with his land.<sup>17</sup>

Chichester Fortescue's Bill of 1860 was drawn with the most scrupulous care to avoid the faintest suspicion of tampering with the rights of property. The tenant was permitted to undertake certain specified improvements—draining, reclamation of waste land, the making of roads and fences and the erection of farm buildings—with or without the consent

<sup>16</sup> Quoted in G. Locker Lampson, *A Consideration of the State of Ireland in the Nineteenth Century*, 329.

<sup>17</sup> I. Butt, *The Irish People and the Irish Land*, 220.



of the owner. If the tenant were disturbed within forty-one years after the completion of the improvements, he was to be paid a sum equivalent to the value of the increase which those improvements caused in the letting value of the holding. If, however, the landlord granted a lease of thirty-one years' duration at the existing rent no further claim for compensation could be made against him. But the effectiveness of the measure was destroyed by a clause preventing tenants from obtaining compensation where there existed any written agreement prohibiting them from undertaking improvements. The bill was quite limited in scope, since it was not retroactive, dealing solely with future improvements. Restated, the whole proposal came to this: "It incorporated with all future lettings of land a contract that the tenant shall be at liberty to make improvements, and shall be paid for them in all cases where the agreement for letting is silent on the subject."<sup>18</sup>

The measure of Naas goes back to the Napier proposals of 1852 which Naas himself assisted in framing, for he was chief secretary in that year. Superficially, it was more liberal than the Fortescue plan since it permitted improvements without the consent of the landlord, and it contemplated existing as well as future improvements. The weaknesses of the plan, however, were legion: the improvements undertaken without the landlord's consent were limited to drainage, reclamation of waste land, the removal of useless fences and the clearing of land; the year-to-year tenant was discouraged from improving because he was asked to stand the expense of a survey of the project by the board of works; and lastly, there was no limitation upon the landlord's power to serve notice as soon as the tenant had signified his intention of improving under the provisions of the law. This bill like its predecessor failed in the House of Commons.

Since the famine year of 1845 many measures dealing with the land question had come before Parliament, and in all

<sup>18</sup> Butt, 222. See also 220-7.

instances they took their shape, superficially at least, from the Ulster Custom. Irish representatives in the House saw their shortcomings but took a lively interest probably because they believed with Isaac Butt: "There is something to be gained when we induce the British Parliament 'to touch, even with the tip of their fingers,' the heavy burden that English rule has laid upon the Irish nation in the system of land tenure which it maintains."<sup>19</sup> The party leaders of the time dared not offend the powerful landed interests by interfering with their property rights. But as the election of 1868 approached, it became clear that the policy of *laissez faire* in land was a dismal failure. Far from giving rise to a higher standard of agriculture and abundant employment, the whole system had the effect of imposing heavier chains upon the whole social system. Those in power slowly came to the realization that they must adopt the institutions of the Irish people although doing so involved an abandonment of the principle of non-interference and a violation of the sacred and absolute rights of property.

*Government Interference: The Act of 1870.*

Shortly before entering upon what were aptly termed the greatest half-dozen years of his life, Gladstone was heard to say: "My mission is to pacify Ireland." For several years Parliament had been groping with Irish problems, but little headway had been made. And from Ireland had come rumblings of evil portent: bad harvests, evictions, unemployment, crowded poorhouses and finally the Fenian outbreaks. Truly there was no social peace in Ireland.

Gladstone was to succeed, at least in a measure, where others had failed. But the others had failed because the forces of reaction were mighty. In 1868, however, a new era dawned, for in that year responsible self-government had come into its own; democracy had supplanted oligarchy, and

<sup>19</sup> *ibid.*, 220.

within the Liberal party the Whig influence was challenged. Palmerston no longer was on hand to check the forces of progress; and for six eventful years the flood-tide of reform was in. The Liberal party was but the instrument and Gladstone the man. During these years of "peace, retrenchment and reform," numerous changes, long overdue, were made, recasting British institutions and equipping the country to face the political and social problems of the years to come.

The attitude towards Ireland underwent a change. During the 'sixties leaders of public opinion manifested an increasing impatience with the prevailing treatment of Ireland; insecure assurances; endless haggling; tiresome select committees and the ultimate resort to coercion. For the first time the British people showed a lively interest in Irish problems—possibly the dignity of the new voter was at stake; possibly Fenianism "like a clap of thunder in a clear sky, unlooked for and unintelligible"; or possibly the feeling of man for man—led to an awakening. "Our rulers are helpless to deal with this outburst of enmity," wrote Mill of Fenianism, "because they are unable to see that anything in their past has given cause for it."<sup>20</sup> And Mill appealed to the people of Great Britain, especially to those of the working class who had responded so admirably during the American Civil War, for aid. "The time is come when the democracy of our country will join hands with the democracy of another rather than back their own ruling authorities in putting it down. I shall not believe until I see it proved, that the English and Scotch people are capable of the folly and wickedness of carrying fire and sword over Ireland in order that their rulers may govern Ireland contrary to the will of the Irish people."<sup>21</sup>

John Stuart Mill became the self-appointed mentor of the English people in all things Irish. He was well qualified for the task for he was the recognized dean of English philosophers. He had been the first to apply the rule of reason to

<sup>20</sup> Mill, *England and Ireland*, 6.

<sup>21</sup> *ibid.*, 26.

Bentham's strict Utilitarianism and for years had been agitating the emancipation of the Irish peasants from the bonds of the *laissez-faire* policy. Gentle persuasion, however, was of no avail with the oligarchy of merchants and landowners in Parliament, so Mill carried his appeal to the people.<sup>22</sup>

His lessons were brief, but trenchant. He excoriated the British rulers for continued stubbornness in forcing their institutions upon a people who either could not understand them, or were ill-fitted to receive them; and he criticized the government for its failure to consider the adjustments of the Irish people. "What are we dreaming of," he exclaimed impatiently, "when we give our sympathy to the Poles, the Italians, the Hungarians, the Servians, the Greeks, and I know not how many other oppressed nationalities? . . . It may be that there is not wisdom or courage to look the idol in the face."<sup>23</sup>

Many Irish reforms must be undertaken "but none of these things," wrote Mill, "not even the cashiering of the Irish Protestant Church—nor all these things taken together, could avail to stop the progress of Irish disaffection, because not one of them comes near its real cause. . . . Let our statesmen be assured that now, when the long deferred day of Fenianism has come, nothing which is not accepted by the Irish tenantry as a permanent solution of the land difficulty will prevent Fenianism, or something equivalent to it, from being the standing torment of the English government and people."<sup>24</sup>

In a very simple fashion Mill made clear to Englishmen the reasons for the grievances of the Irish peasants. Land was a thing "which no man made, which exists in limited quantity, which was the original inheritance of all mankind and which, whoever appropriates, keeps others out of possession. Such appropriation, when there is not enough left for all, is at the first aspect an usurpation of the rights of other people." Such

<sup>22</sup> See Mill's works in Bibliography.

<sup>23</sup> Mill, 24, 42.

<sup>24</sup> *idem*, 43-4.

a condition did exist in Ireland where the whole population was dependent upon agriculture, but did not exist in England because only a fraction—one-third—of the population was attached to the soil.<sup>25</sup> Mill pointed out also that in England landlordism was accepted because it was rooted in the traditions of the country, while in Ireland it was not only contrary to historical antecedent, but obnoxious since it was foreign and absentee.<sup>26</sup>

Mill then went to the heart of Irish grievances—to those aspects of land question which were incomprehensible to Englishmen. Conditions of free contract, though eminently suited to England, were not operative in a country where the whole population was competing for land. "In Ireland alone the whole agricultural population can be evicted by the mere will of the landlords, either at the expiration of a lease, or in the far commoner case of their having no lease, at six months' notice. In Ireland alone the bulk of population, dependent wholly upon land, cannot look forward to a single year's occupation of it; while the sole outlet of the dispossessed cultivators . . . is expatriation."<sup>27</sup> There was another great difference between the two land systems. In England the landlords, managing their estates with an eye to business, kept them improved; while in Ireland the improvements were carried out by the tenants. The practice which "many landlords even of high rank are not ashamed to do" of exacting a higher rent on the basis of such improvements was a vicious outgrowth fostered by the very negligence of the landlord.<sup>28</sup> "To what sympathy or consideration are those entitled," asked Mill, "who avail themselves of a land law to perpetuate what is morally robbery?"<sup>29</sup>

Possibly Mill's broadsides would have had little effect had it not been known that Gladstone intended to deal with the

<sup>25</sup> Mill, 14.

<sup>26</sup> *idem*, 11.

<sup>27</sup> *idem*, 16.

<sup>28</sup> *idem*, 18.

<sup>29</sup> *idem*, 36.



land question as soon as the disestablishment bill became law. But this fact loosed the flood-gates of controversy, and the popular journals took up the cry. The *Times* sent a special correspondent to Ireland who contributed a long series of articles upon the subject "that almost for the first time brought the facts of Irish land before the general public."<sup>30</sup> Isaac Butt, the Irish leader, waged a long controversy with Lord Lifford and Lord Dufferin through the columns of the *Times* and in printed brochures.<sup>31</sup> In 1869 Gladstone wrote: "The question fills the public mind to an extraordinary degree."<sup>32</sup> Mill in another letter said: "There has been a call from Ireland for a reprint of my two speeches on the land question, together with the chapters on that subject in my *Political Economy*."<sup>33</sup> Many other works were published, more valuable for their evidence than for their proffered solutions.<sup>34</sup> According to the *Annual Register*: "The greatest interest and curiosity prevailed concerning the provisions of the bill; and legislators, both professional and amateur, reigned supreme to their hearts' content in the columns of the newspapers."<sup>35</sup>

Never was it more vital that education should precede reform, for as Morley wrote: "The difficulty arose from the huge and bottomless ignorance of those in whose hands power lay."<sup>36</sup> When Gladstone took office the Cabinet, the two Houses of Parliament and the whole mass of British electors knew no more of land tenure in Ireland than they knew of land tenure on the moon. Gladstone's Cabinet was composed, in the main, of landlords, lawyers, and economists,—men saturated with the English ideas of contract, of competitive rent, and of the strict rule of supply and demand.<sup>37</sup> "We may

<sup>30</sup> Morley, *Gladstone*, Vol. II, 293. The articles were later published by the author, W. O'Connor Morris, *Letters on the Land Question of Ireland*.

<sup>31</sup> See Bibliography.

<sup>32</sup> Morley, Vol. II, 230, Gladstone to Granville, September 22, 1869.

<sup>33</sup> Elliot (ed.), *Letters of J. S. Mill*, 230.

<sup>34</sup> See Bibliography.

<sup>36</sup> Morley, Vol. II, 281.

<sup>35</sup> *Annual Register*, 1870, 4.

<sup>37</sup> *idem*, 282.



imagine the task," was Morley's comment.<sup>38</sup> The publicity given the land question was a great help and in introducing his bill Gladstone made a generous acknowledgment: "I cannot remember a case in which so many gentlemen, governed by the simple motives of patriotism and philanthropy, have devoted their time and thought and attainments, not to recommend the narrow views of a party or section, but to elucidate and to clear up the real difficulties of the case."<sup>39</sup> One is strongly led to believe that this reform was won outside rather than within the walls of Parliament.

Immediately after the passage of the Church Disestablishment Bill was assured—in September 1869—Gladstone began to work out his ideas on Irish land. "I have worked daily . . . upon the question," he wrote in December, "and so I shall continue to do. The literature of it is large, larger than I can master; but I feel the benefit of continual reading upon it. . . . And I do not mean to fail through want of perseverance, so neither will I err through precipitancy, or the want of care and desire at least to meet all apprehensions which are warranted by even the show of reason."<sup>40</sup>

There were countless schemes of reform in the air, although most were ephemeral and without merit. Mill's scheme was strikingly simple but too radical to receive serious attention. Briefly he desired the government to determine a fair rent for each peasant holding; and guarantee the peasant permanent possession. The landlord would be given the option of receiving his rent from the national treasury should he desire to sever all connection with the land.<sup>41</sup> The very thought of the State acting in the capacity of landlord brought down upon Mill "the whole host of Whig economists and lawyers," but the new voters showed that they were not afraid of new ideas.<sup>42</sup>

<sup>38</sup> Morley, Vol. II, 281.

<sup>41</sup> Mill, *England and Ireland*, 36-7.

<sup>39</sup> *Hansard*, Vol. 149, 336.

<sup>42</sup> Morley, Vol. II, 293.

<sup>40</sup> Morley, Vol. II, 287, Gladstone to Argyll, December 5, 1869.

There were two proposals, however, before the country which the prime minister could not lightly dismiss. That of the Irish people had been formulated for practical purposes by Isaac Butt. It was the demand for the legalization of tenant right scaled down to a minimum. The chief requirements of this scheme were that the tenant occupiers should be vested with sixty-three-year leases, and pay a rent not in excess of the fair letting value of the land.<sup>43</sup> Butt ridiculed the charge that his proposal was either "revolutionary" or "communist" since it included many safeguards for the landlords.<sup>44</sup> His right to evict for grievous breaches of the contract, such as non-payment of the rent, were not curtailed; subdividing was absolutely prohibited; and there would be no interference with royalties, manorial rights, or even game privileges. In addition Butt would permit the landlords to raise the rents if any accidental circumstances were to increase the value of the holding.<sup>45</sup>

Gladstone's arguments against the Irish demands are not convincing and for that matter the principle of Butt's scheme was adopted in 1881. He stated before the House that the scheme savored of class legislation; that it would reduce the landlords to the position of mere annuitants, leaving them no incentive to remain in Ireland; and finally, since the tenant was not forbidden to sell his interest in the holding, the land would inevitably become concentrated in a few hands. Politically, of course, Gladstone could not risk the adoption of Butt's proposal since it involved such inroads upon the rights of property that it would have received short shift in the legislature.<sup>46</sup>

Gladstone found it more difficult to dispose of the scheme of John Bright. When it was apparent that the policy of *laissez faire* was destined to fail, Bright became the most

<sup>43</sup> Butt, *The Irish People and The Irish Land*, 7.

<sup>44</sup> *ibid.*, 50, 51.

<sup>46</sup> *Hansard*, Vol. 149, 349-54.

<sup>45</sup> *ibid.*, 7.

active advocate of the policy of peasant proprietorship. The essence of such a scheme was the transformation of the tenants with the aid of the government into owners. By lending the tenant a sum of money on easy terms he would be enabled to purchase his holding. Bright believed that a large number of landlords would be willing to sell out if reasonable terms were offered them. The most important considerations in any such policy were, first, what proportion of the purchase money the government should lend; and secondly, whether the State would have a sufficient security for its loan. To lend the tenant the whole purchase price would be to saddle upon the government a host of improvident buyers. But by requiring the peasant to raise a third or a fourth of the purchase money, the government, Bright thought, would have ample security.<sup>47</sup>

In December 1868 Bright joined the Cabinet and began to press for the adoption of his plan. Even before the Church Disestablishment Act was passed, Bright wrote to Gladstone: "We shall find all Ireland, North and South alike, united in demanding something much broader than anything hitherto proposed in compensation bills."<sup>48</sup> Gladstone, however, expressed his doubt as to the government embarking on a very large operation of land jobbing, and was inclined to think that property bought and sold by the State would by force of economic laws gradually return to fewer hands.<sup>49</sup> "Your plan, if adopted in full," he said, "could only extend to a small proportion of the two or three millions' worth of land in Ireland; and I do not see how the unprotected tenants of this land in general would take essential benefit from the purchase and owning of land by a few of their fortunate brethren."<sup>50</sup>

But Bright refused to be discouraged. "The question may break us up," wrote Granville, the Liberal leader in the upper

<sup>47</sup> T. Rodgers (ed.), *Speeches of John Bright*, especially at Dublin, November 2, 1866, 377-91, and in the House, March 14, 1868, 396-405.

<sup>48</sup> Morley, Vol. II, 282, Bright to Gladstone, May 1, 1869.

<sup>49</sup> *idem*, 282.

<sup>50</sup> *idem*, 283.

House. "It will be particularly disagreeable to him [Bright] to have this plan, of which he is so enamored and for which he has received so much blame and a little praise, snuffed out by the Cabinet."<sup>51</sup> In December, Gladstone was forced to speak frankly. "If your seven propositions were law today, you would have made but a very small progress toward settling the land question of Ireland. For all this very plain speech, you will, I am sure, forgive me."<sup>52</sup> The Act of 1870, however, did contain a small measure of land purchase. That it was no greater was certainly no fault of its stalwart advocate. But here again, if Gladstone had attempted to carry out a large measure of purchase, it would have come to grief in the House. John Bright, however, had seen far, and the seed which he planted was destined in time to bear fruit.

For advice Gladstone turned to two Irishmen in his ministry: Chichester Fortescue, the chief secretary, and Sir Edward Sullivan, the Irish attorney general. "Many members of the Cabinet," he told them, "will find it hard to extend their views to what the exigencies of the time, soberly considered, now require; but patience, prudence, and good feeling will, I hope, surmount all obstacles."<sup>53</sup> Extracts from Gladstone's letters reveal his gradual conversion to Irish ideas. "The first point in this legislation," he wrote Fortescue, "viz., that the presumption of law should give improvements to the tenants, is now, I suppose, very widely admitted. . . . Now, as to your 'compensation for disturbance.' This is indeed a question full of difficulty. It is very desirable to prevent the using of augmentation of rent as a method of eviction. I shall be most curious to see the means and provisions you may devise, without at present being too sanguine."<sup>54</sup> Within a month, however, he was won over to Fortescue's idea of compensa-

<sup>51</sup> *idem*, Granville to Gladstone, May 26, 1869.

<sup>52</sup> *idem*, 291, Gladstone to Bright, December 4, 1869.

<sup>53</sup> *idem*, 288, Gladstone to Fortescue, September 15, 1869.

<sup>54</sup> *idem*.

tion for disturbance. "The proposition," he wrote, "that more than compensation to tenants for their improvements will be necessary in order to settle the Irish land laws, will be unpalatable, or new, to several, naturally enough."<sup>55</sup>

On October 30, his scheme, rudely fashioned, was laid before the Cabinet, but there was stiff opposition all round. The Duke of Argyll was upset because Gladstone advised him not to rely on his Highland experiences, but to read on the history of the Irish land question. "My own studies in it," he wrote, "are very imperfect, though pursued to the best of my ability; but they have revealed to me many matters of fact which have seriously modified my views, most of them connected with and branching out of the very wide extension of the idea and even the practice of tenant right, mostly perhaps unrecognized beyond the limits of the Ulster Custom."<sup>56</sup>

Early in December, opposition in the Cabinet reached its height. There was talk of the government breaking up. "The sky is very far from clear but we must bate no jot of heart or hope."<sup>57</sup> Bright was especially difficult where he should have been a close ally. Gladstone pleaded with Bright to drop his own schemes when the latter tried once again to have them substituted for Fortescue's. "Had the Cabinet adopted at this moment a good and sufficient scheme for dealing with the Irish tenants as tenants," wrote Gladstone, "I should care little how much you depreciated such a scheme in comparison with one for converting them into owners. But the state of things is critical. This is not a time at which those who in substance agree can afford to throw away strength by the relative depreciation of those parts of a plan of relief, to which they do not themselves give the first place in importance."<sup>58</sup>

<sup>55</sup> Morley, Vol. II, Gladstone to Fortescue, 289.

<sup>56</sup> *idem*, 290.

<sup>57</sup> *idem*, 290, Gladstone to Fortescue, December 3, 1869.

<sup>58</sup> *idem*, 290-1.



The die-hards in the Cabinet, Lowe, Clarendon, Argyll and Cardwell, "were being driven to choose between their gravest convictions, and their allegiance to party and Cabinet."<sup>59</sup> They had travelled a long distance already; agreeing to the presumption of law as to the making of improvements; to compensation for improvements, retroactive and prospective; and to the right of future tenants at will to compensation for eviction. But they balked at granting compensation for eviction to present tenants. But after a long struggle they all came over, and on January 25, 1870, Gladstone recorded: "Cabinet. The great difficulties of the Irish Land Bill there are now over. Thank God!"<sup>60</sup>

It is interesting but not surprising to learn that the Irish people had little to say in the formulation of a measure which was especially designed to meet their needs. Gladstone actually refused a suggestion from Lord Bessborough to communicate with Sir John Gray, the proprietor of the leading Irish newspaper and one well known to the rank and file of the tenant class. The prime minister was warned that "the success or failure of the Land Bill depends on the *Freeman's Journal*; if it says 'We accept this as a fixity of tenure,' every priest will say the same and vice versa." None the less, Gladstone did not see fit to take Gray or any other representative Irishman into his confidence. "It was, however, almost a point of honor in those days for British cabinets to make Irish laws out of their own heads."<sup>61</sup> As a matter of fact, Fortescue, Sullivan and Lord O'Hagen, the Irish chancellor, were in a sense the representatives of the Irish people. One catches a glimpse of Fortescue straining to pull Gladstone up to a more advanced position, but the latter was looking behind as well as to the fore.

On February 15, 1870, Gladstone introduced in the House of Commons his bill "Amending the Law Relating to the

<sup>59</sup> *idem*, 292.

<sup>61</sup> *idem*, 292.

<sup>60</sup> *idem*, 293.



Occupation and Ownership of Land in Ireland." His speech was a long one for the assumption was that the House knew nothing of the enigmas of Irish land. He emphasized particularly the differences between the land systems of the two countries. "We cannot name a point in which the relation of landlord and tenant in Ireland are the same, except only in what may be called the general and abstract idea."<sup>62</sup> Past legislation had failed because Parliament had refused to take cognizance of fundamental differences, but "with lazy, heedless, uninformed good intentions" had adopted measures of amelioration which were not applicable to Ireland. For that reason land legislation as well as other legislation had failed, and largely because Irish customs and practices had been uniformly disregarded.

In relation to land there existed a system of tenant right, and in those districts where it had been recognized, a condition of prosperity prevailed. In regions outside Ulster there was neglect and discontent. Gladstone confided that the purpose of his bill was to adapt the law to the customs of the country. To this extent since all else had failed it was the duty of the government to interfere. Ireland henceforth must be governed according to Irish rather than English ideas. It was proposed to give to the tenantry, in effect, the same security as tenant right had bestowed upon the tenants of Ulster.

In weighing Gladstone's solution it must not be forgotten that innumerable times before the citadel of the "just rights of property" had been stormed. The framers of the act in infringing upon property rights had, by all means, to evade the suspicion that anything remotely resembling a joint ownership in land was being created. Up to that point the landlords now felt they would have to yield, but beyond it they believed they could count, and with good reason, upon the support of the landed class in Great Britain. For political

<sup>62</sup> *Hansard*, Vol. 149, 338.

reasons, therefore, Gladstone had to proceed cautiously and circuitously.

To assert boldly before the House that the purpose of the bill was to legalize throughout Ireland the Ulster Custom would have scotched it at the start. The prime minister shrewdly put the matter in the least offensive light. There were bad landlords, he argued, and they must be made to behave as the good landlords. This position has been skilfully paraphrased by Richey: "Your right to evict your tenants is incontestable, no one would dream of depriving you of what is most certainly your property; you may, of course, turn out your tenants as you like, but it shall be made so expensive a proceeding that you will think seriously before you attempt it."<sup>63</sup> A good landlord, therefore, was one who abided by custom; a bad landlord, one who violated custom—such was the implication.

The bill dealt with the whole mass of tenant occupiers, some 600,000 in number. These were, for purposes of legislation, divided into four groups: the first included all those subject to the Ulster Custom; the second, those subject to customs analogous to the Ulster Custom "prevailing irregularly and variously over a large part of Ireland," but possessing neither the definite existence nor the tradition of Ulster; the third, comprising the great residue of yearly tenancies enjoying no protection from custom; and the last included the leaseholders, a group relatively secure by virtue of long leases.<sup>64</sup>

The first two groups were readily disposed of. By a single clause the Ulster Custom was legalized, with the proviso that the claimant, since the custom varied on estates and in districts, must prove the usages pertinent to him.<sup>65</sup> Those holding

<sup>63</sup> G. Richey, *The Irish Land Laws*, 64.

<sup>64</sup> *Hansard*, Vol. 149, 365-6.

<sup>65</sup> 33 and 34 Vict. c. 46, sect. 1. The act did not contain a definition of the Ulster tenant right. Judge C. Ball in *Lendrum v. Deazley*, 4 L. R., 465, stated: "The Ulster Tenant Right is not uniform; it exists and

under customs analogous to the Ulster Custom were henceforth protected by the legalization of those customs; but again, since the customs were nowhere fixed and authoritative, the court was not to consider them as absolutely binding upon the landlord.<sup>66</sup> But in general the payments made by an incoming tenant were to be taken as an indication of the loss and damage a tenant would suffer from an eviction. Outside of Ulster, the tenant was vested with a legal claim only when disturbed by his landlord.<sup>67</sup>

The great effort of Gladstone was embodied in the clauses dealing with the bulk of the tenantry; those holding under yearly leases and enjoying no custom whatever.<sup>68</sup> Henceforth, any tenant unjustly evicted was entitled to a money compensation. This was the great victory of the tenants. In analyzing the Ulster Custom it was pointed out that the tenant's interest represented something over and above the value of his improvements: an "occupational interest." An outgoing tenant received a sum made up of two ingredients: a part representing a payment for the improvements which he left behind, and the remainder a payment known popularly as "goodwill" for his intangible interest in the holding. Gladstone's compensation to the evicted tenant likewise represented two things: the value of the improvements left behind, and something in addition which he dared not term a compensation for the intangible interest of the tenant, but which would seem to be the equivalent of it. This last was termed "compensation for disturbance."

It was Gladstone's desire to provide a single scale of compensation, leaving the courts with considerable power to see that justice was done each individual, but when the opposition tried to read into the act clauses defining the money pay-

manifests itself with a variety of usages. Therefore when a claim founded upon it is made in respect of a particular holding, we must, in the first instance ascertain what is the usage applicable to the holding."

<sup>66</sup> Sect. 2.

<sup>68</sup> Sects. 3, 4.

<sup>67</sup> *Hansard*, Vol. 149, 368-9.

ment as compensation for permanent improvements alone, Gladstone was obliged to face the fire and fight in the open. Even then he did not frankly admit an occupational interest, but explained that the amount over and above the compensation for improvements was designed to cover works on small holdings which had meant labor and expense to the poor tenant, but which a court could never recognize as improvements. Gladstone endeavored to create the impression that additional compensation was "for the inconvenience caused to the tenant in breaking up his home and seeking another farm."<sup>69</sup> In the clauses creating a "compensation for disturbance," despite the subterfuge, the landlords scented a diminution of their power and the opposition rose to its highest point in the debates on the bill. But the unprecedented Liberal majority could not be overcome.

The actual provision was most complicated, but by including within its scope all tenancies where the rent did not exceed £100 the whole body of the tenantry was provided for.<sup>70</sup> Compensation for disturbance varied inversely with the valuation of the holding, so that the tenant whose holding was valued under £10 might claim up to seven years' rent, while one whose holding was valued over £50 might claim only two years' rent. This provision was engulfed in a multitude of limitations; for instance, compensation in no case could exceed £250; and again, tenants claiming more than five years' rent were excluded from claiming compensation for improvements other than those of a permanent nature. The courts were permitted to make deductions for arrears of rent and for any deterioration due to neglect. Likewise, tenants who subdivided or who sublet without the consent of the landlord were excluded from compensation. All tenants who held leases

<sup>69</sup> Richey, 69.

<sup>70</sup> Sects. 3, 4. Future tenants holding less than thirty-one year leases were included.

of thirty-one years or over were considered outside the necessity of this protection.<sup>71</sup>

In respect to the long-disputed claim of compensation for improvements, the tenants likewise gained an important victory. In the first place the presumption of the law was reversed. Henceforth and wholly in accord with Irish custom, improvements were deemed as the work of the tenant; and therewith the onus of proof was shifted upon the landlord.<sup>72</sup> Secondly, Parliament, with little opposition, retraced its steps and decreed that a dispossessed tenant was entitled to compensation for all the improvements made by himself or his predecessors.<sup>73</sup> Improvements were defined as works adding to the letting value of the holding, the benefit of which were unexhausted at the time of the tenant's quitting the holding. There were many limitations to this mode of compensation, largely in the direction of equitable treatment of the landlords. Improvements made twenty years prior to the claim, for instance, were not recognized with the exception of permanent buildings and reclaimed lands; and likewise no claim was allowed where the improvements had been made without the consent of the owner; or where the tenant had refused the opportunity to sell his improvements to an incoming tenant. Finally, in the evaluation of improvements, the length of their enjoyment was taken into consideration.

With regard to future improvements, Gladstone stated "that the just right to improve belongs to the owner."<sup>74</sup> But in the event of the landlord's relinquishing this right, the tenant was granted the absolute right to make any improvements deemed necessary for the cultivation of the farm. All

<sup>71</sup> No definition of "disturbance" is given in the act. Rule 4 of the Judges Rules of 1870 states that the tenant may serve his claim "as soon as he shall have been served by his landlord with notice to quit or with an ejectment, or disturbed by any act of the landlord within the meaning of the statute."

<sup>72</sup> Sect. 5.

<sup>73</sup> Sect. 4.

<sup>74</sup> *Hansard*, Vol. 149, 376-7.



such improvements were to be registered in the landed estates court.<sup>75</sup> In order that the object of this clause might not be defeated by unscrupulous landlords; it was further provided that no tenant whose holding was valued at less than £50 might contract himself out of the right to compensation.<sup>76</sup>

Another blow was struck at the existing land system by the imposition of a stamp duty of 2s. 6d. upon every notice to quit. "If the landlords," said Gladstone, "should feel it necessary for their own purpose to prosecute that amusement hereafter, they shall find it more expensive than it had been heretofore."<sup>77</sup> An attempt was made to extend the time between the serving and the execution of an eviction notice from six to twelve months; but owing to sheer prejudice consent was withheld. Irish custom, it may be mentioned, had established two years as a suitable period of grace.

The bearing of the act upon the first three groups of tenant occupiers has now been considered. With respect to the fourth group, a sincere attempt was made to provide for its rapid augmentation. Gladstone in 1870 felt that the ultimate solution of the land problem lay in the creation of a large body of farmers enjoying long leases. These were the men, Gladstone argued, who would make real farmers and who would develop the agricultural resources of the country. Consequently all owners granting leaseholds of thirty-one years or more were enabled (except in Ulster) to escape all claims for compensation except in lieu of permanent improvements, and to guard against having the land "run out," for unexhausted manures.<sup>78</sup>

The settlement of all compensation claims was placed in the hands of the judiciary. Cases were adjudicated in the civil bills court (a function of the quarter sessions) over which the county court judge presided. A court of appeal was vested in two judges of the assize and a final appeal might be made to

<sup>75</sup> Sect. 6.

<sup>76</sup> Sect. 12.

<sup>77</sup> *Hansard*, Vol. 149, 381-2.

<sup>78</sup> Sect. 4.

a special land court sitting in Dublin.<sup>79</sup> The law contained many definitions and qualifications; but due to the great variety of circumstances which might arise under the act, an equity clause allowing the court to take into account all the particular facts of the case was deemed necessary.<sup>80</sup> As a general rule, however, the court was instructed to allow the maximum claim for disturbance, unless the landlord could show cause to reduce the amount.<sup>81</sup>

Such were the principal provisions of the Act of 1870; but before endeavoring to estimate their adequacy let us turn to certain subsidiary provisions known as the Bright clauses. John Bright, as we have explained, endeavored to reach a solution of the Irish land problem by the creation of a class of peasant proprietors. Although his principle was not adopted as the primary method of dealing with the problem, the authors of the bill consented to land-purchase clauses—as an experiment. That the experiment was unsuccessful shall be presently shown, but the importance of the Bright clauses lies in the fact that the government was for the first time putting into effect the policy which was eventually to solve the problem.

This was not the first time land purchase had appeared on the statute book. Such a scheme had been inaugurated only the year before as an incident in the Irish Church Disestablishment Act.<sup>82</sup> The tenants on church lands were invited to purchase their holdings. One-quarter of the purchase money was required of the tenant, the remainder being advanced by the commissioners. The advance was

<sup>79</sup> Sects. 22-4.

<sup>80</sup> Sect. 18.

<sup>81</sup> Richey, 69, 70. It was believed that this worked severely upon the landlords; but in *Ward v. Walker*, Donnell, 391, Judge J. Fitzgerald said: "The maximum compensation should only be given where capricious eviction takes place, or where some act of misconduct has been committed by the landlord." See Cherry, Wakeley and Maxwell, 169, and Richey, 75.

<sup>82</sup> *Hansard*, Vol. 149, 377-8.

repaid by annual instalments including both interest and sinking-fund payments over a period of thirty-two years. At the end of that time the tenant became the absolute owner of his farm. The Church Temporalities Commissioners succeeded in making sales to 6,057 of 8,432 tenants.<sup>83</sup>

The Bright clauses of the Act of 1870 were modelled on similar lines. The board of works was enabled to advance to any tenant on an estate which had fallen into the hands of the land judges court a sum up to two-thirds of the purchase price. The holding was then charged with an annuity of five per cent, one and one-half of which constituted a sinking-fund payment. If the payments were regularly made the loan would be extinguished in thirty-five years.<sup>84</sup>

In order to encourage large-scale transactions provision was made for the purchase of any estate where the landlord and tenants (occupying holdings to the value of four-fifths of the total) were able to come to an agreement. Bright believed that many landlords would sell out at a fair price if the opportunity presented itself. All such tenants were obliged to assume the same obligations as other peasant proprietors. It should here be mentioned that in order to give landlords reciprocal advantages, the act permitted them to borrow money from the board of works either for the purpose of reclaiming waste lands or for the purpose of compensating retiring tenants.<sup>85</sup>

Finally John Bright hoped to make it possible for the landlord to sell holdings to individual tenants upon the estate. The great drawback in any such transaction was the diffi-

<sup>83</sup> The total amount of the purchase moneys under the act, 48 and 49 Vict. c. 49, sect. 23, was £1,674,000. The average purchase price was the equivalent of  $22\frac{2}{3}$  years' purchase of the rent. The terms of repayment and the rate of interest were subsequently altered and reduced under the Land Purchase Act of 1885; 48 and 49 Vict. c. 73. See also W. F. Bailey, *The Irish Land Acts*, 22.

<sup>84</sup> Sects. 44-6.

<sup>85</sup> Sects. 42-3.

culty of title transfer. Every acre of Irish land was so bound by a thousand and one legal entanglements that the process of vesting title in a new owner, unlike in the United States, was a most complicated matter. Bright strove to break down this barrier. Accordingly it was provided that where an agreement of sale had been reached, the land judges court was given authority to set aside the obstacles, to execute the agreement and to convey to the purchaser a title guaranteed by the State. The difficulties, however, proved to be too great to overcome. The cost of establishing title, the entangled legal status of small portions of land, and the numerous small charges upon the land such as quit-rents and drainage charges, were insuperable obstacles.<sup>86</sup>

Sigerson, a contemporary economist, wrote in 1871: "The intention of this whole part is so admirable and its utility so evident, that praise is superfluous. It is to be hoped that the board of works, as well as the estates court, will feel bound to afford every requisite facility in carrying out its object. If this plan be not trammelled, the nation may soon be leavened by a class of cultivators unsurpassed in position by any recorded in its history."<sup>87</sup> But the numerous well-wishers of the Bright clauses were doomed to bitter disappointment. Only 877 tenants purchased their holdings under these provisions.<sup>88</sup>

Land purchase failed chiefly because the individual was unable to obtain the requisite one-third of the purchase money.<sup>89</sup> Furthermore, influenced always by the relationship the annuity charge would bear to his present rent, the

<sup>86</sup> Richey, 82-8.

<sup>87</sup> G. Sigerson, *Land Tenures and Land Classes of Ireland*, 212 n.

<sup>88</sup> The total purchase money was £859,522; the amount of advances, £514,536; the average price of a holding, 23 $\frac{1}{3}$  years' purchase of the rent. Bailey, 22, 23.

<sup>89</sup> By an amending act, 35 and 36 Vict. c. 32, sect. 1, the board of works was enabled to lend up to two-thirds of the *value* of the holding, but the difference between the value and the price was too small to add any stimulus to buying.

tenant, upon ascertaining that the former would be a larger amount, felt that he would be no better off by the transaction. In the large number of cases the rent charge was already a maximum, so that there did not really exist the capacity to purchase. Only by longer terms of repayment might the annuity be reduced to a point sufficiently low to induce the tenant to buy. There were other objections to the purchase provisions. Alienating, assigning and subletting were prohibited under pain of forfeiture of money paid in; a penalty which the tenant believed too harsh.<sup>90</sup> The legal difficulties have already been discussed.

It was alleged by some that the average tenant never became aware of the privileges offered him under the purchase clauses. Others were convinced that the board failed to carry out the purchase provisions in the liberal spirit in which they were intended. Richey, a learned professor of law, contends, however, "in most cases in which such complaints have been made, they in fact amount to an objection to the rules as to such advances adopted by the board, which, although recognizing the benefit of a peasant proprietary, could not forget that they were the trustees of public money, and insisted upon unquestionable security for the advances which they were requested to make."<sup>91</sup> But the very presence of land-purchase clauses upon the statute book, despite the failure of the policy, was none the less a significant event.

### *The Act of 1870: A Critique*

"There was something almost painful in the strange phenomenon of a peace minister fighting as it were all but single-handed the details of his own great measure through the charges and ambuscades of a numerous and restless

<sup>90</sup> Sect. 44. These obstacles were likewise removed by the amending act of 1872, without result.

<sup>91</sup> Richey, 88.



enemy . . . and of an enemy determined to fritter away the principle of the measure under the pretense of modifying its details.”<sup>92</sup> It is at all times difficult to define the greatness of Gladstone, the more so since that greatness has been handed down to us as something entombed. Majesty in the flesh we admire and comprehend; but majesty dead and deified leaves us cold. There is a human quality of majesty, the property of a few, which is transcendent and masterful. Gladstone was able to perceive where others were blind, and he possessed the power to compel others to follow in his path. So here.

In January 1870, Gladstone wrote to his sovereign: “To this great country the state of Ireland after seven hundred years of our tutelage is in my opinion so long as it continues, an intolerable disgrace, and a danger so absolutely transcending all others, that I call it the only real danger to the noble empire of the Queen.”<sup>93</sup> Few men could treat of reform in such a lofty way, but he belonged with the “stern men with empires in their brains,” and could not rest until the evil was uprooted. His mind once fastened upon the need, to act became a duty religious in its fervor.

This very zeal, almost unawares, drew Gladstone’s contemporaries in his wake. Parliament as a whole was indifferent to Irish problems; certainly there was little sympathy for the Irish peasants. Few understood nor did they care to understand the labyrinth of the Irish land problem. The Liberal party, and much less the Cabinet, little felt the necessity of attempting any such reform. But Gladstone prevailed, and in the House he fought his bill through the gamut of three hundred amendments with an enthusiasm that was at once bewildering and forceful.

Among those perplexed was Disraeli on the opposite bench. “What moved the Right Honorable Gentleman to get

<sup>92</sup> Morley, Vol. II, 296. Quoted from the *Spectator*.

<sup>93</sup> *idem*, 293, Gladstone to the Queen, January 15, 1870.

us into all these intricacies in reference to Ulster? 'What's Hecuba to him or he to Hecuba?' ", he ejaculated.<sup>94</sup> He was clearly puzzled by the tactics of his rival. "On the seventh, I have to express my views on the Government Bill," he wrote to Napier, a former chief secretary. "What a situation for the leader of a party, as Bright says, 'still a great party' !" But he obtained little advice from Napier, and so in debate he fell upon the most obvious weakness of the bill with all his little shining darts. "I will venture to say that a more complicated, a more clumsy, or a more heterogeneous measure was never yet brought before the consideration of Parliament."<sup>95</sup> He would have preferred "in a whisper" something that had at least simplicity and brevity to recommend it. But in this case his weapon was of no avail.

There was an intangible opposition to the bill and one which if sufficiently aroused might turn the tables. The men of property were ever watchful, but Gladstone took care not to wound their susceptibilities too severely. His majority was large enough and sufficiently loyal to enable him to reshape the institution of Irish land.

Gladstone even though he desired dared not attempt to give outright to Ireland the benefits of the Ulster Custom. In his act there was no guarantee of perpetuity of tenure or of fair rents evaluated by a court. "The reader may judge for himself," wrote Morley, "how impossible it would have been for Mr. Gladstone, in all the plenitude of his power, to persuade either Cabinet or Parliament to adopt such invasions of the prevailing doctrine."<sup>96</sup> Gladstone's arguments were stated succinctly in a letter to Cardinal Manning: ". . . to prevent the landlord from using the terrible weapon of undue and unjust eviction, by so framing the handle that it shall cut his hands with the sharp edge of pecuniary damages. The man evicted without any fault, and suffering

<sup>94</sup> *Hansard*, Vol. 149, 1821.

<sup>96</sup> Morley, Vol. II, 296.

<sup>95</sup> *ibid.*

the usual loss by it, will receive whatever the custom of the country gives, and where there is no custom, according to a scale, besides whatever he can claim for permanent buildings or reclamation of land. Wanton eviction will, I hope, be extinguished by provisions like these. And if they extinguish wanton eviction, they will also extinguish those demands for unjust augmentations of rent, which are only formidable to the occupiers because the power of wanton or arbitrary eviction is behind them."<sup>97</sup> This, then was Gladstone's purpose—to effect the Ulster Custom by penalizing the landlords who refused to recognize its bearings.

The main purpose of the act was unfortunately defeated because there were huge loopholes which selfish landlords were quick to perceive. The landlords keenly resented that "entirely new rule of law," the imposition of a penalty for disturbing the tenant. They were not blinded to the fact that the penalties involved were but a thinly veiled recognition of an infringement of their property rights. The landlords, while accepting the principle of compensation for improvements, also resented the retrospective provisions which exposed them to claims for past as well as future improvements. Lecky has best stated their position: "I cannot reconcile with the rights of property the retrospective clause making a landlord liable for improvements made by tenants at a time when no such liability was recognized by law and with a clear knowledge of that fact; and the clause giving a yearly tenant compensation for simple disturbance if he was removed at the end of the year seems to be essentially dishonest, and the germ of much evil that followed."<sup>98</sup> But Lecky forgot that "if the claim of the tenant not to be wantonly disturbed had no legal grounds to support it, perhaps it had some equitable, certainly it had moral."<sup>99</sup>

<sup>97</sup> Morley, Vol. II, 294.

<sup>98</sup> W. E. Lecky, *Liberty and Democracy*, Vol. I, 176.

<sup>99</sup> Richey, 90.

The landlords, however, with hardly so much as an effort escaped the burden of compensation. The act provided that an ejectment for non-payment of rent did not constitute a disturbance, except in case of holdings under £15. By simply raising the rent to a point beyond the capacity of the tenant to pay, the landlord was enabled to eject the tenant and thus escape the penalty. There were tenants, too, who in order to obtain a holding undertook to reimburse the landlord for the expense of compensating the outgoing tenant. This fact helps to explain the prevailing hatred of any one who was seen to take up the farm of an evicted tenant.<sup>100</sup> Unfortunately under the scale provided, the amount of compensation was less on a single large holding than that upon an equal area composed of small holdings. This undoubtedly aggravated the tendency to consolidate.<sup>101</sup> The provision which permitted a tenant whose holding exceeded a ratable valuation of £50 to contract himself outside of the act had a similar effect.<sup>102</sup>

Richey, the economist, wrote that the Act of 1870 "was founded upon a misconception of what the tenant desired, and created hope which it failed to realize."<sup>103</sup> That the act was not founded upon a misconception, we have shown, but it is certainly true that the tenant did not desire the compensation under the act. "This pecuniary compensation was nothing in comparison to the loss of his home and the destruction of his business; a sum of money in hand was no adequate compensation to him, for he knew only two modes of using it, either in stocking a farm or lodging it in a bank upon the security of a deposit receipt."<sup>104</sup> Above all the tenants desired the quiet possession of their holdings and the satisfaction of knowing that, so long as they paid their rents, they could not be disturbed. By a system of checks, balances

<sup>100</sup> *idem*, 96.

<sup>103</sup> Richey, 100.

<sup>101</sup> Sect. 3. See Richey, 68 ff.

<sup>104</sup> *idem*, 94.

<sup>102</sup> Sect. 12.

and penalties, Gladstone failed to secure this result, but that he endeavored to do so, there can be no doubt. It is clear then that this act, dubbed by the *Annual Register* "one of the most remarkable and original pieces of legislation in the statute book," was destined to fail in its operation.<sup>105</sup>

The Act of 1870 has been regarded by posterity as one of a long line of measures dealing with the question of Irish land, and one of a host of minor reforms carried out in Ireland during the nineteenth century. But a moment's reflection will dispel what may properly be termed a crass illusion. Since the Famine there had been countless attempts at reform but all had failed. In the Act of 1870 the government not only interfered, but it executed a complete bouleversement. At one stroke it abandoned its *laissez-faire* hypothesis in regard to land; and likewise it rejected the landlords' doctrine of an absolute and infallible right of property in land. The new law was based upon Irish practices, and the right of retrospective compensation for improvements and the admission, in the compensation for disturbance clauses, of a tenant's interest were remarkable victories. Other abuses were swept away in what amounted to a codification of the law of landlord and tenant. But few persons foresaw in the act "a first step of a vast transfer of property, and that in a few years it would become customary for ministers of the Crown to base all their legislation on the doctrine that Irish land is not an undivided ownership, but a simple partnership."<sup>106</sup>

<sup>105</sup> *Annual Register*, 1870, 12.

<sup>106</sup> W. E. Lecky, *Liberty and Democracy*, Vol. I, 165.



## CHAPTER IV

### THE RISE OF IRISH NATIONALISM 1875-1879

#### *Butt*

ISAAC BUTT is commonly remembered as the man who fell before the ruthless onslaught of Parnell in a struggle for the political leadership of Ireland. This oft-repeated statement reveals one fact generally overlooked, that political activity had been revived in Ireland to such an extent that the leadership of it was worth contesting. Butt's work was to restore Ireland to a condition of political sanity—no mean achievement.

The utter prostration of the Irish people in 1846, followed by the "great betrayal" of their hopes in 1852, had caused them to turn their backs upon constitutional action. They had little faith in English reformers and their own had broken faith with them. Physical Force—a philosophy of despair—once more came into the ascendancy. Its adherents strove by reckless deeds of destruction to compel the government to adopt reform. The Young Ireland débâcle of 1848 was succeeded by the Fenian outrages of the late 'sixties. Though applauding the daring of its "hunted and martyred," the people were passive, for regardless of its idealism Physical Force made demands which were not attractive. Many stood aghast at the prospect of self-immolation, and others rejected the policy as either wantonly destructive or morally wrong. Needless to say, the government met Physical Force with a policy of coercion that was equally ruthless.

Isaac Butt set out upon his task with few of the attributes of Irish nationality to commend him to the people. He was a Protestant, and a Tory, who in his youth had dared

defend the Act of Union against the old liberator, O'Connell. On the other hand he was a man of parts: an honor graduate of old Trinity, an able practitioner, a skilful speaker, a writer on public affairs. A term in Parliament in the 'fifties brought no renown. In 1848, however, he attracted attention in Ireland by undertaking the legal defense of the leaders of Young Ireland. Butt believed the revolutionary cause to be foolhardy and hopeless although he wondered greatly at the willingness of men to lay down their lives in its behalf. A score of years later his sympathies were enlisted in the amnesty movement, an agitation for the liberation of political prisoners who had participated in the Fenian outrages. Butt bore the brunt of the work and his efforts were rewarded by the proclamation of a general amnesty in 1870. Thus this erstwhile Tory endeared himself to the people, and incidentally achieved a reputation as an orator rivalling O'Connell's.

Meanwhile Butt made a study of Irish abuses and became convinced that nothing could be accomplished until the people were organized for political purposes. Taking advantage of the widespread interest which had been manifested during the amnesty movement, Butt founded the Home Rule Association. In the election of 1874 an Irish party "pledged to hold itself individually and collectively aloof and independent of all party combinations" successfully contested 51 seats. Butt had welded together an Irish party and the Home Rule movement had begun.

The remainder of Butt's short political career was an anti-climax. He failed to achieve his ends in Parliament and his work in contrast with that of Parnell seems barren. It is not difficult, however, to absolve Butt from blame. In 1874 he was over sixty years of age, and as a result of his tireless exertions in poor health and in straitened circumstances. Furthermore, Butt was forced to choose candidates who were able to bear the expense of an election. The Home

Rule party, therefore, included a number of men whose adherence to its principles was only nominal—and in consequence its effectiveness was greatly weakened. There were other obstacles. The revolutionary elements were hostile; and the people though sympathetic could not be roused. The defection of the Keogh faction in 1852 still rancored in their minds, and they had lapsed into a chariness of constitutional remedies.

In Parliament Butt pressed for reform by means which were strictly in keeping with the decorum of the House. He was eloquent, he was persuasive—indeed it is recorded that his speeches were among the best during the dull sessions from 1874 to 1877—but the House, though polite, lent a deaf ear. The “grand-field day” of the Irish became an annual parliamentary event.<sup>1</sup> There were countless resolutions but nothing transpired. Not until several years had elapsed was this tranquillity disturbed.

Since the early 'sixties Butt had been a close student of the land question, and his plans of reform have been discussed.<sup>2</sup> He subscribed wholeheartedly to the doctrine: “The State has a right, by the extreme law of social compact, to regulate the enjoyment and use of all property whenever the safety of the whole community requires that this should be done.”<sup>3</sup> It was his further conviction that “the only remedy that can be applied to this lamentable and miserable state of things is to elevate the occupier from his position of serfdom by giving him an interest in the soil . . . by giving him Fixity of Tenure while we leave to the owners of the soil every right and power, except those which he cannot continue to exercise without the waste and destruction of human life, and without bringing ruin both on himself and the entire community.”<sup>4</sup>

<sup>1</sup> *Annual Register*, 1876, 20, 21.      <sup>2</sup> *supra*, 77.

<sup>3</sup> I. Butt, *The Irish People and the Irish Land*, 58.

<sup>4</sup> *ibid.*, 59.

Butt was dissatisfied with the Act of 1870 and continued to agitate in Parliament for the adoption of the three F's; fixity of tenure, fair rents and free sale. In March 1876 his scheme was formally discussed in the House. In regard to the fixing of fair rents he said: "I propose . . . that the landlord and the tenant should each select one arbitrator, and the two arbitrators thus appointed shall agree on a third. In cases where the landlord should not appear, I suggest that the rent should be assessed by a jury composed of three special and three common jurors."<sup>5</sup> Butt was opposed to the use of government valuers, since he believed there were few men qualified for such a delicate task. Another factor of Butt's bill gave to the tenant the unrestricted right of selling his tenant right. The bill, however, was defeated by an overwhelming majority on the second reading. Both parties denounced it roundly; Chief Secretary Hicks-Beach arguing that such a law would convert the landlords into mere rent-chargers and rob them of all interest in the improvement of their estates. The Liberal leader, Hartington, attested to the satisfactory working of the Act of 1870, and saw no need of undertaking changes.<sup>6</sup> Butt was regarded as a visionary, but none the less the day was to come when his ideas would not so be regarded.

Isaac Butt fully realized that Parliament would not undertake to remedy abuse unless there was some manifestation on the part of the people in favor of agrarian reform. He pointed out to the Irish peasants the necessity of organizing a body similar to the English Corn Law League. "If those who have [the confidence of the Irish people] were to combine the tenant farmers of Ireland into one great 'tenant league'; if such an association were to use all rightful means of influencing public opinion, both in Ireland and England, to collect and authenticate all the instances which prove the need of protection for the occupier of the soil—to do, in a word, all that

<sup>5</sup> R. B. O'Brien, *The Life of Charles S. Parnell*, Vol. I, 92 n.

<sup>6</sup> *Annual Register*, 1876, 22.

such an association might lawfully and honorably do to press in the British Parliament and nation the claims of the Celtic race to live in their own land—I do not believe that in the presence of the moral power of such an association our present system of land tenure could last three years.”<sup>7</sup> This was a remarkable prophecy as the events of the next few years were to reveal. Butt, however, was unable to organize such a movement on a scale large enough to be of importance; but a beginning was made in the formation of tenant protective associations in various portions of the country.

### *The Shadow of Famine*

Butt's efforts to arouse interest in the land question outside Parliament were as unsuccessful as those in the House. In truth, the years 1870 to 1877 were years of plenty in Ireland, and high prices for agricultural products prevailed. In 1875, a synthesis of the Irish situation stated: “There is no longer the agitation which convulsed the country in the days gone by. Home Rule still keeps a little cauldron simmering; but there is no fear that it will ever become formidable. . . . An organized attempt is made to fan into a general flame the dissatisfaction which is felt in some parts of the country with the working of the Land Act, but its success has hitherto been slight and confined to certain localities. The relation between landlord and tenant continues to be generally friendly and both parties are with some remarkable exceptions adapting themselves with prudence and good feeling to the changes consequent upon the application of a new law. In the north a determined struggle is made to obtain a larger concession of tenant right than the act has given and in the other provinces corresponding advantages are sought, but the tenants whom it is sought to arouse and combine in general action are giving but faint response to the call of their leaders. The truth is that it is by no means so easy as it formerly was to

<sup>7</sup> Butt, 289.



make them discontented, and they are unwilling to be drawn away from more profitable pursuits to engage in an agitation which offers but little chance of success.”<sup>8</sup>

Though the Peace Preservation Act was still in force, Hicks-Beach felt able in 1875 to promise the abolition of coercive clauses. Here and there it was suspected an isolated Riband or Fenian society might still be active, but of sustained agrarian crime there was little. In 1874 the number of such crimes had fallen as low as two hundred. Since in Ireland there has always been a relationship between crimes and evictions, it is not surprising that during the decade from 1867 to 1877 there were fewer evictions than during any prior decade. Throughout the period there were less than five hundred evictions during any single year. Crops were good, prices high, rents were paid without difficulty, there were no wholesale evictions and in consequence little crime.

Despite the Act of 1870, however, Irish agriculture remained what it had always been, inefficient and obsolete. For the peasants, farming was not an industry in the same sense as the “petite culture” of the Continent; it was at most a means of eking out a subsistence for self and family and keeping abreast of the rent. England, intent upon producing wealth through her manufactures, turned elsewhere for food and from this demand Ireland, due to the landed connection, had benefited. But during the 'seventies a change set in. Foreign meat and grain, especially from the United States, flooded the English market, much to the detriment of the Irish trade. Butter and eggs appeared from Denmark and the Low Countries. The Ireland of the hoe and the plow, lacking in capital, machinery, transportation and credit facilities, was sadly equipped to compete in the new age. Prices began to fall and Irish rural economy, always haphazard, suffered a decline.

In addition to the general tendency, which affected the

<sup>8</sup> *Annual Register*, 1875, 134-5.

peasant class only remotely, there set in a series of bad seasons. Crops valued in 1876 at £36,000,000 fell in 1877 to £28,000,000, and though they rose again slightly in 1878, they declined sharply to £22,000,000 in 1879. In the three years following 1877 the loss was calculated at £26,000,000, the equivalent of two and one-half years' rental for all Ireland. The distress fell most heavily upon the western counties, a region dependent upon the potato crop. This crop, over all Ireland, was valued at £12,500,000 in 1876; £5,300,000 in 1877; £7,600,000 in 1878, and £3,300,000 in 1879.<sup>9</sup> The crop of 1879 represented a loss of seventy-five per cent, with the dire result that Ireland was no longer able to provide food for her inhabitants. Owing to incessant rains the drying of peat was hindered, so that many parts of the country had to endure a fuel famine. Another hardship was imposed by the failure of English crops. The demand for the harvest migratory laborer practically ceased, cutting off a fruitful source of income for the Irish peasant. Under such circumstances the ability to pay rent was destroyed.

There followed almost immediately the collapse of the "money market" as it might be called in the absence of a more homely expression. An old adage states that "when an Irishman is not a borrower, he is almost certain to be a lender." During the prosperous years following 1870 there was an inflation of credit produced, curiously enough, by a security arising from arrangements in the Act of 1870. In a negative way the tenant had been vested with an interest in his holding.<sup>10</sup> Possibly to his astonishment his credit expanded, and in consequence a mania for borrowing seized upon all classes of tenant farmers. A large number of branch banks sprang up, often so many as four in a town of two thousand inhabitants. A tenant desiring money to manure his land or to fatten his pigs borrowed on the strength of

<sup>9</sup> *Cowper Commission Report*, Vol. 26, 952-8.

<sup>10</sup> Montgomery, 158.

a tenant right that was at best questionable.<sup>11</sup> Banks paying one per cent on deposits imposed a charge of fifteen or twenty per cent on small loans. It was a profitable business. The village "gombeen man" likewise did business, dealing in sums under £5. His risk, however, was amply covered by an exorbitant rate of interest, calculated to come to two hundred and sixty per cent for the year.<sup>12</sup> "I don't understand figures but my terms are a shilling per pound every month," was this usurer's naïve explanation. The tradesmen also, able to obtain money on long terms from the banks, allowed customers to run up bills. Only perpetual prosperity could sustain such a free-and-easy credit system. In 1879, beginning with the failure of the Glasgow Bank, a small panic set in.<sup>13</sup> Banks, gombeen men, and shopkeepers clamored for the satisfaction of obligations. Tenant farmers failed by the score and those who did succeed in rendering account to their immediate creditors had nothing left for the landlords.

As in 1846, easy-going landlords were charitable, but their numbers had greatly decreased since that time. Ejectment notices were showered upon the peasants and the evicted family once again became a common sight. Statistics show that in 1877, 980 families—far more than the average—were evicted; and in 1880 the number had increased to 2,110. The Act of 1870 when put to the test had collapsed like a house of cards.

### *James Fintan Lalor*

Nationalism has been defined as the soul of a people—an unscientific definition, but possibly more related to the truth than is supposed. Writers are apt to speak of Irish nationalism as a phenomenon of great antiquity, presumably aroused by Strongbow in the twelfth century. If one is to assume that Irish nationalism is grounded solely in the hatred of England,

<sup>11</sup> B. H. Becker, *Disturbed Ireland*, 206-14.

<sup>12</sup> *ibid.*, 209-10.

<sup>13</sup> Locker Lampson, 376.

then the subject needs no further examination. It is quite obvious, however, that nationalism in the modern sense of that word did not exist in Ireland until aroused by Davitt and Parnell in 1879. The Emancipation movement was essentially a reform movement of interest only to the Catholic portion of Ireland. But Irish nationalism no more has its roots in the Catholic faith than in the English language.

O'Connell made the mistake of presuming that Irish nationalism was basically the desire for self-government, a belief shared by many today. On the contrary that goal of all Irish reformers was a tender plant and had to be nourished carefully for several generations before taking root. O'Connell's agitation for Repeal was a flat failure and it is difficult to explain away the contradiction. In 1843 it was impossible to awaken in the Irish people a state of group consciousness on the question of self-government.

Both Young Ireland and the Fenians made similar assumptions—and the revolutionary movements which they concocted were likewise failures. The soul of the nation had yet to be discerned. During the year of martyrdom, 1848, an obscure journalist—James Fintan Lalor—made the discovery but at the time it was not heeded. Irish nationality was the love of the land from which the peasant eked out a living—on that and on no other question could the Irish people be roused. "The people do not care to subvert the British government; you cannot move them to talk against the Union; what they want is the land of Ireland for themselves; if, therefore, you wish to shake the British rule in Ireland, you must link a revolutionary with a socialistic movement, and hound on the peasantry against their landlords, the real English garrison."<sup>14</sup>

In the columns of *The Nation* and *The Felon*, this little hunch-backed writer poured forth a doctrine of revolution. Though Lalor literally drove men into the ranks of the

<sup>14</sup> Quoted in Locker Lampson, 285.

Physical Force party and to destruction with his envenomed pleas, the full implication of his message was neither acted upon nor fully understood. Again and again he insisted: "The land question contains, and the legislative question does not contain, the materials from which victory is manufactured, and therefore, if we be truly in earnest and determined on success, it is on the former question, and not on the latter, we must take out stand, fling out our banner and hurl down to England our gage of battle. Victory follows that banner alone, that and no other. This island is ours, and have it we will, if the leaders be true to the people and the people be true to themselves." <sup>15</sup>

Lalor saw in the dominion of the English landlords the incarnation of the dictum, "Property is Theft." "I acknowledge no right of property in eight thousand persons be they noble or ignoble, which takes away all right of property, security and independence, and existence itself, from a population of eight millions, and stands in bar to all the social rights of its inhabitants." <sup>16</sup> During the famine years the landlords had been put to the test, and in insisting upon the collection of rents, had shown themselves unworthy of the position they held. "A people whose lands and lives are thus in the keeping and custody of others instead of in their own are not in a position of common safety. . . . They or we must quit the island," wrote Lalor. "It is a people to be saved or lost; it is the island to be kept or surrendered. They have served us with a general writ of ejectment, wherefore I say let them get a notice to quit at once, or we shall oust possession under the law of nature." <sup>17</sup>

The essence of Lalor's doctrine was as follows: "I hold and maintain that the entire soil of a country belongs of right to the entire population of that country, and it is the

<sup>15</sup> Locker Lampson, Appendix, LIII, b.

<sup>16</sup> Quoted in Michael Davitt, *The Fall of Feudalism in Ireland*, 65.

<sup>17</sup> *ibid.*



rightful property, not of any one class, but of the nation at large, in full and effective possession, to let to whom they will. I . . . firmly believe that the enjoyment of the people of this right of first ownership in the soil is essential to the vigor and stability of all other rights. . . . Let no people deceive themselves by the words and ideas and phrases and forms of a mock freedom; by constitutions and charters and articles and franchises. These things are paper and parchment, waste and worthless." The full right of ownership should be asserted "by any and all means which God has put in the power of man."<sup>18</sup>

Lalor ridiculed the efforts of contemporary revolutionary leaders who were striving to make an issue of the question of Repeal. That had a narrow appeal; it interested the men of the towns; it would not rouse the countrymen because it did not do away with the landlords; it would not restore to them their land. "A revolution," counselled Lalor, "ought never to take its stand on low or narrow grounds, but seize on the broadest and highest ground it can lay hands on, . . . a petty enterprise never succeeds. Not to fall back on '82, but to act up to '48, not to resume or restore an old constitution, but to found a new nation and raise up a free people, and strong as well as free, and secure as well as strong, based on a peasantry rooted like rocks in the soil of the land, this is my object, . . . and this is the easier, as it is the nobler and more pressing enterprise."<sup>19</sup>

The revolution of 1848 was a flat failure. It rested not upon the broad base of an aroused people contending for that which they loved, but upon a narrow political appeal in which the people were not interested. Lalor did not long survive his impassioned appeals; his writings were adjudged treasonable and he was imprisoned. Released upon grounds of illness, he died in December 1849. Just thirty years later a similar situation arose in Ireland; there was famine, dis-

<sup>18</sup> *ibid.*

<sup>19</sup> *ibid.*

content and unrest. The guidance of the Irish people fell to one who was the spiritual heir of James Fintan Lalor.

*Michael Davitt*

Davitt was born in the Famine year, 1846, on a tenant holding in the far reaches of County Mayo in the west. Shortly after he was taken to England and, though reared in a factory town, seems to have borne the impress of the soil for the rest of his days. Like other youthful exiles, the tragedy of the Famine took possession of his imagination, and at an early age he became enmeshed in the toils of Fenianism. In 1870 he was arrested and, possibly unjustly, judged guilty of treason-felony on a charge of collecting arms and ammunition for the revolutionaries. The next eight years were spent in penal servitude. On December 19, 1877, this "dark, delicate looking young fellow of about thirty" was released from Dartmoor Prison on a ticket-of-leave. On January 5 he arrived in Ireland with three other suspects, one of whom, Sergeant McCarthy, died from the effects of long confinement. It was at his death-bed that Davitt first met Charles Stewart Parnell.

During the long years of his prison life Davitt dreamed of nothing but emancipating his countrymen from their shackles. He had little faith in the long and patient path of constitutional reform; and likewise he rejected the fitful and foolhardy attempts of idealistic revolutionaries like those of 1848. But from the doctrines of Lalor he conceived of a revolutionary movement sanctioned and sustained by the great mass of the Irish people. Like Lalor he, too, sought the broadest ground. In 1848 the broadest ground upon which revolution might rest was most certainly to be found in the support of thousands of rack-rented tenants and cottiers of Ireland. But by 1878 the Irish people had been scattered to the four winds. Thousands were to be found in exile—in England, Scotland, the United States, Canada and Austral-

asia. Lalor's appeals must be reconstructed in order to rouse the energies of a widely diffused race. Davitt believed that a social revolution for the betterment of Ireland would be well-nigh impossible unless the burden were placed squarely upon the shoulders of the whole nation.

There were many difficulties facing this young enthusiast. The Irish world was divided into seemingly irreconcilable factions. There was a large Physical Force element on both sides of the Atlantic, men of '48 and Fenians, who were convinced that the Irish could succeed only by a revolt in arms. A second group made up of old Repealers and new Home Rulers believed that the reform movement should proceed upon purely constitutional lines.

Davitt was doubtful as to the wisdom of attempting to rally these diverse elements upon a platform of political independence. Though he was quite aware that the vast majority of Irishmen were separatists at heart, he knew full well that only a small fraction of Irishmen held any hope of attaining that end. The failure of the Fenian movement of 1866-1870 had been accepted by most as final. In fact the Irish Republican Brotherhood, which in 1867 boasted of a membership of 200,000, could, ten years later, marshal only 50,000, many of whom were nominal. Only the most optimistic saw even a possibility of action; and their hopes were pinned upon the remote contingency of an Anglo-American or an Anglo-Russian war. There was indeed a small band—the "skirmishers"—who stood willing at any time to engage in the most desperate deeds of vengeance. Convinced that "existing movements had but a small hold upon the active support of the race on either side of the Atlantic," Davitt therefore discarded separation as too unsound an appeal upon which to rally the Irish people.<sup>20</sup>

Instead he chose Lalor's doctrine, "the land for the people," as the tocsin of revolution. Here was the point upon which

<sup>20</sup> Davitt, 119.

Irish sentiment was strongest and the English position weakest. Landlordism—upheld by British power—stood for rack rents, eviction and expatriation. The countless victims of this obnoxious system were in exile in every corner of the globe. "All the social discontent, and the potential power it stood for, was . . . ignored by the extreme nationalists, while the Home Rulers dealt with it on cautious and conservative lines only. It was a vast untilled field of popular force, if its resources could be drawn upon for the purposes of a national movement through a suitable program or policy."<sup>21</sup>

Davitt deliberately selected the United States as the most fertile field for the inception of this new revolutionary doctrine. He landed in New York in August 1878 and for four months was occupied in enunciating his doctrines before large audiences in various American cities. With consummate skill he announced that his policy, "The New Departure," contemplated "an open participation in public movements in Ireland by extreme men, not in opposition to Mr. Parnell or moral force supporters, but with a view to bringing an advanced nationalist spirit and revolutionary purpose into Irish life, in a friendly rivalry with moderate nationalists, in the work of making English rule more difficult or impossible."<sup>22</sup> Anxious to secure the adherence of the whole Irish-American population, Davitt was careful not to speak in terms of condemnation of the moderates, the Parnellites or the Fenians.

At a final meeting in Boston on December 20 the following resolutions were enthusiastically endorsed: first, that national self-government was the chief need of Ireland. That was for the idealist. Secondly, that the Irish representatives in Westminster should be thoroughly nationalist and independent, and oppose incessantly all attempts at government by coercion. Furthermore, the nationalist party was urged to press upon Parliament measures for the development of Irish industries, resources and fisheries; for the reclamation of waste lands;

<sup>21</sup> Davitt, 121.

<sup>22</sup> *idem*, 125.

for the improvement of dwelling houses; for the extension of tillage; and for other essential reforms. Here was Davitt, a Fenian, endorsing the policy of parliamentary endeavor. Thirdly, though not of least importance, there was "a demand for the improvement of the Irish land system by such a thoroughgoing change as would prevent the peasants from being further victimized by landlordism." It was held to be the duty of the State to buy up the land and sell it or let it in perpetuity to the tenants.

Though the biographer of Parnell asserts that the "new departure" was in the air before Davitt arrived, it is certain that it had taken no definite form except the rather vague feeling among certain groups "that something might be done with the Parliamentarians after all."<sup>23</sup> The aggressive tactics of Parnell in Parliament were having an effect in America. But it required infinite skill to transmute acquiescence into action. Davitt had been in the country but a month when he succeeded in winning over Physical Force men like John Devoy of the *Irish World* and John O'Reilly of the *Boston Post*. These men had habitually opposed all moral-force movements. But Davitt's "land-for-the-people" plea had an irresistible appeal. "Let us do this," said O'Reilly, "and a new era will dawn in the old land. Throw down the gage of battle to landlordism, as the source of Irish poverty, eviction and emigration, and a mighty power will be enlisted in the fight against English rule. America's moral support would be won for a practical Irish proposal that would link a solution of the social problem with the national question, while the financial help of the Irish in the States would be forthcoming in the land-for-the-people struggle in Ireland. I am confident this is going to become the greatest of Irish revolutionary movements."<sup>24</sup>

In Ireland much interest had been excited by Davitt's bold sortie in the United States, but actual progress was less rapid among the Irish groups. The revolutionary Pigott organs,

<sup>23</sup> R. B. O'Brien, Vol. I, 165.

<sup>24</sup> Davitt, 130.



*The Irishman* and *The Flag of Ireland*, believed Davitt's compromising policy would be demoralizing to the revolutionary cause. The '48ers and Fenians like Charles Kickham took a similar view. Finally, Davitt and Devoy returned to Ireland to lay the new project before the council of the Fenian society. They summarily rejected it. "This was keenly discouraging," wrote Davitt. "It upset a long-cherished hope of rendering the revolutionary movement the real, active force in Irish public life, and of bringing all nationalist elements into a struggle against the pro-British faction of landlords and office seekers who owned and governed Ireland."<sup>25</sup> Support, however, came unexpectedly from what were considered passive sources. Individuals like Thomas Brennan and Patrick Egan, ex-Fenians, were won over; the recent Amnesty Association and the leaders of the Home Rule Association in Great Britain evidenced a willingness to cooperate with Davitt. It was decided to proceed in spite of the opposition of the revolutionary organization.

Davitt chose Mayo, his native county, as the most fertile ground upon which to test his doctrine of revolution. This bleak western county had fallen prey to all the grosser evils of landlordism. It had witnessed more evictions and clearances and possessed more inhabitants on the poverty line than any other county. Although it had lost a large proportion of its inhabitants, as was testified by the disappearance of over twenty-five thousand dwelling houses since the Famine, conditions did not improve on account of the consolidating activities of grazing interests. The peasants were driven more and more to the bog and the mountain. Then came the bad seasons. The potato crop of 1878 failed and the following winter was a severe one. The payment of rents became impossible and under such circumstances any rent must have seemed a rack rent. The people were desperate and ready for anything.

<sup>25</sup> Davitt, 135.

During the early months of 1879 Davitt journeyed to several western counties to acquaint himself with the desperate condition of affairs and to meet the leading men among the people. The "new departure" was inaugurated by Davitt at a huge meeting at Irishtown on April 19. The meeting was a protest against the increase of the rents on a nearby estate. Seven thousand persons unanimously resolved, "that as the land of Ireland, like that of any other country, was intended by a just and all-providing God for the use and sustenance of those of His people to whom He gave inclination and energies to cultivate and improve it; and the system which sanctions its monopoly by a privileged class, or assigns its ownership and control to a landlord caste, to be used as an instrument of usurious or political self-seeking, demands from every aggrieved Irishman an undying hostility, being flagrantly opposed to the first principle of their humanity—self-preservation."<sup>26</sup> The meeting also resolved that the unjust rents of local and other Mayo landlords should be immediately reduced. The manner of the application of English democracy in Ireland was strongly denounced. These propositions varied greatly from the demands which had been heard at Home Rule or Tenant Right associations under the auspices of Butt. There one had heard pleas for the adoption of the three F's or for amendments to the Act of 1870, but there had been no radical land-for-the-people outbursts. Curiously enough the landlord whose conduct had been excoriated at Irishtown was none other than a Catholic clergyman, Canon Burke. Almost immediately after the demonstration he reduced his rents twenty-five per cent. The first victory had been won.

The Dublin papers took little notice of the meeting because it was not conducted under Home Rule auspices. In addition it had been directed against a son of the church and that was a dangerous business. Soon after, however, there was great

<sup>26</sup> *idem*.

excitement upon the announcement that Parnell, the radical Parliamentary leader, had agreed to address a meeting under "new departure" auspices to be held at Westport early in June. The revolution was indeed making headway.

*Charles Stewart Parnell*

Parnell stumbled and stammered his way into the House of Commons in 1875, his thirtieth year. He had been accepted by the Butt forces not because of ability, but because it was known that he could finance an election campaign. This man differed from other landholding Protestants in that he was saturated with a hatred of England that is almost inexplicable. For two years Parnell was a dead loss to the cause of Home Rule. His ignorance of parliamentary form and procedure was abysmal; but he finally learned the rules by breaking them and found that by reading the newspapers carefully one might venture a parliamentary question and thus hear the sound of one's voice. Parnell was sometime to become one of the most astute parliamentarians who ever sat in the House.

Curiously enough the day on which Parnell took his seat in the House—April 22, 1875—marked the beginning of the famous Irish policy of obstruction. Joseph Biggar, an Irish member, rose and for four hours held the floor, largely by reading long extracts from newspapers and Blue Books. The hint was soon taken by other Irish members and the time of the House was increasingly occupied in listening to long-winded speeches by the Irish members.

Of all this Isaac Butt, wedded to the parliamentary tradition, emphatically disapproved. "I am not in favor of a policy of exasperation."<sup>27</sup> From this position he refused to depart and with the growth of the new tactics the influence of the old Home Ruler began to wane. Biggar thoroughly disapproved of the tactics of the Home Rule Party. "What's the

<sup>27</sup> R. B. O'Brien, Vol. I, 81.

good?" he would say of Irish bills. "We can't get them through, we know we can't get them through. The English stop our bills. Why don't we stop their bills? That's the thing to do. No Irish bills; but stop English bills. No legislation; that's the policy, sir, that's the policy. Butt's a fool, too gentlemanly; we're all too gentlemanly."<sup>28</sup> Since 1871 only one Irish measure of any importance had become law—the Municipal Privileges Act. In the Queen's speech of 1877 there was no mention of outstanding Irish problems—such as land, education, parliamentary franchise or Home Rule.

Parnell went over wholeheartedly to obstruction in which he soon became a master. "If we are to have parliamentary action," he said, "it must not be the action of conciliation, but of retaliation."<sup>29</sup> After a flagrant show of obstruction on April 12, 1877, Butt rose and said: "I regret that the time of the House has been wasted in this miserable and wretched discussion. . . . I must express my disapproval of the course taken by the honorable member from Meath [Parnell]. It is a course of obstruction, and one against which I must enter my protest. I am not responsible for the member from Meath, and cannot control him."<sup>30</sup> The House received Butt's reprimand with ringing cheers. But from that moment Isaac Butt ceased to be the leader of his party.

Butt's political decline was rapid and tragic. He placed the issue of obstruction before the Irish people in the *Freeman's Journal*. Parnell defended the new policy and a long controversy was waged in Irish organs. Attempts were made to heal the breach but Parnell was resolved to carry the controversy to the bitter end. The Home Rule Federation of England was a strong body and more radical than the Irish organization. Feeling that it was in sympathy with obstructionist tactics Parnell, in the spring of 1877, placed the controversy before that body. He addressed a number of meetings in Eng-

<sup>28</sup> *idem*, 92.

<sup>30</sup> *idem*, 112.

<sup>29</sup> *idem*, 107.

lish industrial cities and succeeded in winning over the radical element. In September at the annual meeting of the Home Rule Confederation of Great Britain Parnell was elected president by acclamation. Butt, the former incumbent, felt the blow keenly. "Ah," he was heard to say, "I never thought the Irish in England would do this to me."<sup>31</sup> Parnell had scored a decisive victory. In January a Home Rule conference was held in Dublin in the hope of reconciling the leaders, but Parnell refused to compromise. The moderates began to drift to Parnell during 1878. In February 1879 Butt and Parnell clashed for the last time. So strong was the loyalty and respect for the old leader that a motion espousing "more energetic action . . . in Parliament" was defeated by eight votes. This was Butt's last triumph. He was laid to rest in the following May—a worn-out man. "The founder of the Home Rule movement has to some extent been overshadowed by the remarkable man who was so near bringing that movement to a successful issue. Nevertheless, Isaac Butt will always stand in the front rank of Irish political leaders of the nineteenth century."<sup>32</sup> In passing judgment upon him one must pay tribute to the persistence with which he adhered to his political convictions. As late as January 1879 he maintained: "No man can damage the authority of the House of Commons without damaging the cause of representative government and freedom all over the world." Butt was succeeded by William Shaw as the leader of the Home Rule party, but the real leadership was in the firm grasp of Parnell.

### *Davitt and Parnell*

After Davitt was released from Dartmoor he saw Parnell several times before his departure to America. Parnell refused his invitation to join the revolutionary organization saying: "No, I will never join any political secret society,

<sup>31</sup> R. B. O'Brien, Vol. I, 112.

<sup>32</sup> *idem*, 181.



oath-bound or otherwise. It would hinder and not assist me in my work for Ireland. Others can act as seems best for themselves. My belief is that useful things for our cause can be done in the British Parliament in proportion as we can get reliable men to join us and follow a resolute policy of party independence. We must endeavor to establish faith in parliamentary work of an earnest and honest kind, and try in this way to revive the goodwill of men like yourself who are justified in doubting from past experience whether any real service can be rendered to the Irish people by electing representatives to go to Westminster. I agree with a good deal of what you suggest about putting a stronger program before the public especially in relation to the land question, and I see no reason why men who take opposing views as to the best way of liberating Ireland cannot work in harmony for minor reforms.”<sup>33</sup> Despite Parnell’s refusal to join the Fenians, Davitt shrewdly perceived that he might be prevailed upon to join in a social and agrarian movement.

While Davitt was in America and unknown to him, Devoy, on November 7, 1878, cabled to Kickham that the Fenians would support Parnell providing he would abandon the Federal demand and substitute a general declaration of self-government, and would conduct a vigorous agitation of the land question on the basis of a peasant proprietary and accept certain “other conditions.”<sup>34</sup> To Davitt touring the western United States this proposal seemed very imprudent since the message, published openly and signed by three trustees of the ill-famed skirmishing fund, would lay Parnell open to charges of conspiracy.<sup>35</sup> But Parnell wisely paid no attention to this manœuvre and for the time refused to reveal his attitude towards the “new departure.”

While the struggle for the leadership of the Home Rule party was being waged, Parnell apparently paid little atten-

<sup>33</sup> Davitt, III-12.

<sup>34</sup> *idem*, 125-6.

<sup>35</sup> *idem*, 126.

tion to the "new departure." In fact until the Irishtown meeting in April 1879, the movement yielded no practical results. But so widespread had the talk of land become that Parnell had to give some recognition to the subject. In November 1878, speaking at Tralee, he pledged himself to work for the achievement of the three F's and for a further extension of the Bright clauses. By so doing, he told his audience, "they might be preparing the way perhaps some day for a radical alteration of the land system, and for the establishment of what he believed to be the true system of land tenure—the proprietorship of the soil by the people who cultivated it."<sup>36</sup>

The success of the Irishtown meeting had arrested the attention of Parnell and set him to conjecturing. The Fenian organization had rejected the "new departure" and were Parnell to court it he could hardly be accused of linking up with the extremists. There was little doubt of the willingness of the country to espouse the movement, for the wolf was at the door. In addition the American Irish had evidenced a large measure of sympathy for the oppressed and might be counted upon to lend substantial support. Early in June Parnell was called upon to make a decision. He was invited to address the Westport meeting. "Do you think," he asked Kickham, the old Fenian, "that the people feel very keenly on the land question?" "Feel keenly on the land question?" retorted Kickham. "I am only sorry to say that I think they would go to hell for it."<sup>37</sup> Two days before the meeting the Archbishop of Tuam addressed a letter to the *Freeman's Journal* protesting "against such combinations in the diocese, organized by a few designing men, who . . . seek only to promote their personal affairs."<sup>38</sup> This was indeed a blow since Parnell, a Protestant leader of a Catholic people, could ill afford to defy the Church. None the less he decided to address the meeting.

<sup>36</sup> Davitt, 137. Quoted from the *Freeman's Journal*, November 16, 1878.

<sup>37</sup> R. B. O'Brien, Vol. I, 183.

<sup>38</sup> Davitt, 153-4.

"I have always considered it the most courageously wise act of his whole political career"; wrote Davitt later.<sup>39</sup>

The Westport meeting was held on June 7, 1879, and there were present eight thousand. Parnell argued that in such a period of distress it was impossible for the peasant holders to pay the usual rent. He advised them, therefore, to agitate for the reduction of rents, to resist the further consolidation of holdings, and to prevent the landlords from pursuing a policy of dispossession. "You must show them that you intend to keep a firm grip of your homesteads and lands. . . . The public opinion of the world will stand by you and support you in your struggle to defend your homesteads."<sup>40</sup> Davitt's utterances were much stronger but his advice was sound. "If the tenant farmers of Ireland will organize themselves in one body, with but one purpose, and resolve upon a settlement which the organized determination of such a purpose would render comparatively easy, the landlords of Ireland would be compelled to sell out to the government within less time than has already been occupied in the discussion of Mr. Butt's complicated and unsatisfactory land bill. Instead of 'Agitate, agitate,' the cry at present should be 'Organise, organise.'"<sup>41</sup>

The Westport meeting received much publicity owing to the presence of Parnell. Dwyer Gray, editor of the *Freeman's Journal*, condemned the raw economic theories which had been there expressed. The press was not yet ready to throw over the old for the new. Meetings, however, multiplied rapidly and soon the apprehensions of the authorities were aroused. Lowther, the chief secretary, gave the cause additional publicity when he attacked in Parliament Davitt and the other leaders. Men of all shades of opinion began to join. John Dillon; A. J. Kettle, a Buttite; Matthew Harris, an

<sup>39</sup> *idem*, 154.

<sup>40</sup> *idem*. Quoted from the *Freeman's Journal*, June 9, 1879.

<sup>41</sup> *idem*, 155. Quoted from *The Connaught Telegraph*, June 14, 1879.

old-time Fenian; and Dr. Duggan, Bishop of Clonfert, were enlisted as organizers. But the Bishop of Tuam remained adamant. He wrote to Lowther: "In some parts of the country the people, in calmer moments, will not fail to be astonished at the circumstance of finding themselves at the tail of a few unknown, strolling men, who with affected grief, deploing the condition of the tenantry, seek only to mount to place and preferment on the shoulders of the people."<sup>42</sup> Davitt's response to this letter was the organization of a meeting at Tuam and its success put an end, for the time being, to clerical opposition.

In August Davitt was ready to organize his forces. A land league convention was held at Castlebar, County Mayo, and was attended by representatives from all over the country. It was proposed to form the National Land League of Mayo. A document embodying the principles, rules and objects was read by Davitt. Reasserting that the land of Ireland belonged to the people and drawing its text from John Stuart Mill—"The right to hold land goes as it did in the beginning with the right to till it"—it was declared that "land being created to supply mankind with the necessities of existence, those who cultivate it to that end have a higher claim to its absolute possession than those who make it an article of barter to be used or disposed of for purposes of profit or pleasure."<sup>43</sup> It was revealed that more than six million acres of Irish land were owned by fewer than three hundred individuals, twelve of whom owned one million and a quarter acres; while on the other hand five million of the people owned hardly an acre. Proprietorial rights had to be maintained by police, who in turn were supported by the landlords. Some £12,000,000 in rent were extracted from the people by this non-producing class. The property of 744 landlords, if divided into twenty-acre farms, would support two and one-half million people. "The interests of the landlords are pecuniary and can be

<sup>42</sup> Davitt, 159.

<sup>43</sup> *idem*, 160-3.



compensated, but the interests of the people of Ireland, dependent upon the produce of the soil, are their very existence. In denouncing existing land laws and demanding in their place such a system as will recognize and establish the cultivator of the soil as its proprietor, we desire that compensation be given the landlords for the loss of their interests when the State, for the peace, benefit and happiness of the people, shall decree the abolition of the present system.”<sup>44</sup>

This, then, was to be the great principle of the league—that land was absolutely essential to the well-being of the community and to this end the landlords should sell out. If they would not relinquish their lands voluntarily, it was the duty of the State to use compulsion. Meanwhile, the league would undertake to safeguard the interests of the people: by protecting them from capricious exercise of power; by striving by every means within the law for the abolition of the present land laws; by holding up to opprobrium the injuries suffered by the peasants, particularly rack renting and arbitrary eviction; and by rendering assistance to the evicted and the helpless. Furthermore, it would act as a vigilance committee in Mayo, noting the conduct of every official from poor-law guardian to member of Parliament and pronounce public judgment upon his actions. Finally, the league planned to publish lists of estates, showing how such lands had been obtained, together with the conditions of tenure and rent. Were the rent of any holding to exceed the Griffith valuation that fact would be broadcast.<sup>45</sup> All contemplated evictions were to be given widespread notice and meetings of protest were to be convened on the spot. Lists, too, were to be published of those who dared rent the holding of one who had been evicted for non-payment of rent; and of those who offered the landlord a higher rent than the previous occupier. The promoters of the Mayo League were Michael Davitt,

<sup>44</sup> *idem*, 161.

<sup>45</sup> A government valuation made in 1852 for purposes of taxation.



Thomas Brennan, Patrick Egan, Matthew Harris and others, largely ex-Fenians, who had been imported into Mayo for the purpose.

There remained much to be accomplished. Davitt was anxious to spread the movement to other counties; to convince men that the new type of organization would serve the tenants better than Butt's tenant protective associations; and finally to win over the doubting Parnell. Even after the Westport meeting Parnell hesitated about lending his wholehearted support. He was wary of a great national organization with many branches. He did not wish to risk his leadership in the type of organization where the central body would bear the responsibility for the actions of the many local isolated groups and individuals. When informed of the action taken in Mayo, Parnell expressed neither approval nor disapproval.

Meanwhile the situation in Ireland was becoming daily more distressing. Excessive rainfall and the appearance of the potato blight warned of the approach of famine. Even Parnell's forces were constrained to advise the people to endeavor to impress the gravity of the situation upon the government. Outside of Connaught many meetings were held under the auspices of the tenants' defense clubs and the Home Rule League. "It was the last rally of the moderate land reformers to save their movement," wrote Davitt.<sup>46</sup> Large meetings were held in Tipperary, Cork, Limerick, Ennisworthy and other centers.

It became apparent, however, as the situation became more critical, that the spirit of the people—regardless of under what auspices the meetings were held—was the spirit of the Land League. Parnell, always an opportunist, began to come over. His speeches became infected with the new doctrine. "It is the duty of the Irish tenant farmers to combine among themselves and ask for a reduction of rent,

<sup>46</sup> Davitt, 168.

and if they get no reduction, then I say that it is the duty of the tenant to pay no rent," he said at Limerick on August 31.<sup>47</sup> Three weeks later at Tipperary he repeated this advice and told his audience frankly: "It is no use relying on the government, it is no use relying on the House of Commons. You must rely upon your own determination . . . and if you are determined, I tell you, you have the game in your own hands. . . . There is no power on earth which can prevail against the hundreds of thousands of tenant farmers of this country."<sup>48</sup>

His contacts with the Irish people during the late summer had revealed to Parnell the clumsiness of his position. He, the acknowledged leader of the Home Rule party, had not yet adopted the only cause which stirred to the depths the feelings of the people. No leader could afford to ignore a cause that had tapped the very source of Irish nationalism, drawing into its wake the Fenians, the bishops and priests, the Irish press and Irishmen in all quarters of the globe. With Davitt at the head of one league and himself at the head of another he felt that the cause of a united Ireland would be endangered. This thought was clearly expressed at a Home Rule meeting on September 11. "Unless we unite all shades of political opinion in the country, I fail to see how we can expect ever to attain national independence."<sup>49</sup>

Plainly it was Parnell's duty to unite with the "new departure" movement; and before the end of September a pact was consummated. Parnell agreed to assist in organizing a national land league, to become its president and to undertake a mission in America. The league was permitted to absorb the tenants' defense associations; and their secretary, A. J. Kettle, became a member of the Land League executive. Davitt and his confrères on their part agreed to adopt

<sup>47</sup> *idem*.

<sup>49</sup> *idem*, 194.

<sup>48</sup> R. B. O'Brien, Vol. I, 193.

a platform which would not compromise Irish activities in Parliament. The result was the unity of the Irish cause.

The Irish National Land League was organized in Dublin on October 21, 1879. Its objects were first, to bring about a reduction of rack rents and, second, to facilitate the ownership of the soil by the occupiers. It was resolved that "the objects of the league can best be attained by permitting organization among the tenant farmers; by defending those who may be threatened with eviction for refusing to pay unjust rents; by facilitating the working of the Bright clauses of the Land Act during the coming winter; and by obtaining such a reform in the laws relating to land as will enable every tenant to become the owner of his holding by paying a fair rent for a limited number of years."<sup>50</sup>

The program was thus stripped of the defiance of the Mayo organization—its aims had become constitutional. Parnell with reluctance agreed to a proposal that none of the funds of the league should be used for furthering the interest of any parliamentary candidate.<sup>51</sup> It was feared by the majority of those present that unless it were distinctly avowed that the funds would not be used for electioneering purposes, little money could be raised in America in behalf of the league. Shaw, the nominal head of the Home Rule party, was known to be a moderate. Davitt, Kettle and Brennan were elected secretaries and Biggar, O'Sullivan and Egan, treasurers. A large and representative executive committee was also appointed. The credit for this remarkable achievement belongs entirely to Michael Davitt. In less than two years this man was able by sheer enthusiasm and tireless energy to stir up a movement which literally compelled all Irish factions to acknowledge its importance. It was a movement of such strength that the leader of the Irish political forces was not only unable to ignore it but was forced to become its leader.

<sup>50</sup> Davitt, 172.

<sup>51</sup> *idem*.

It must be kept in mind that Parnell never subscribed to the revolutionary convictions of Davitt. His views at this time appear to have been in the process of formation. At most Parnell thought that the land question might be settled by transforming all the occupiers into State tenants. He was not heartily in favor of a peasant proprietary, although he supported the demand as a matter of expediency. In an agricultural country like Ireland, lacking in other industries, the small proprietors, he believed, would soon be reduced to slavery by the banks and the gombeen men. With Parnell Home Rule was always the objective of primary importance. "It would matter little if we had Home Rule whether the farmers were proprietors of their land or tenants with fixity of tenure and low rents under national government. But land ownership and loyalty are generally inseparable with a peasantry, no way prone in any country to care or sacrifice much for the principle of patriotism."<sup>52</sup>

Parnell's task was no easy one. It had been Davitt's good fortune to reconcile and to organize all the divergent elements. To Parnell now fell the responsibility of keeping them engaged upon a single purpose. The extremists, though seven of eight Land League executives were ex-Fenians, remained hostile. With this small faction Parnell could not hope to compromise. He refused to enter into any compact that might involve him in treasonable proceedings. For the time his chief concern was to expand the league: by printed propaganda, by the organization of meetings, by convincing people of the inadequacy of Butt's agrarian proposals and by securing the sympathy of the Church and the press. The *Freeman's Journal* remained strictly loyal to William Shaw. Parnell, busy in Parliament, was able to devote but a limited amount of time to the league. The movement appeared to be lapsing when the intervention of the authorities gave it a timely stimulus. Indeed an organiza-

<sup>52</sup> *idem*, 174.

tion attacking so recklessly the sacred right of rent could not hope to escape the surveillance of the government. Speeches transcribed by government reporters led to wholesale arrests. Among the first batch of prisoners, charged with sedition, were Davitt, Daly and Brennan. Parnell escaped, for his utterances were cautiously worded, calculated always to come just within the law. The prosecutions were held at Sligo and reported daily by twenty-seven correspondents. The news went round the world and the league was flooded with messages of encouragement and promises of support. The government experienced such difficulty in obtaining an impartial jury in Ireland that the trials had to be abandoned on the eve of the election of 1880. This turn of fortune gained the league many adherents in Ireland, and paved the way for Parnell's mission to America.

### *The American Land League*

The American Irish began to rally during the summer and fall of 1879. The leading Irish organs, the *Irish World* of New York, edited by Patrick Ford, and *The Pilot* of Boston, edited by Boyle O'Reilly, kept the public informed of events in Ireland. The knowledge that Parnell was coming on a mission sustained interest in the Land League. The first monetary assistance rendered by Americans to the "new departure" came from the Clan-na-gael, and had been drawn from the obnoxious "skirmishing fund" originally subscribed for purposes of "warfare against England." Davitt admitted that the acceptance of this money was the first mistake committed by the league, and to allay charges of conspiracy the contribution was later returned. At the time, however, the money was essential in preparing for Parnell's work. In fact, when Parnell and Dillon arrived in January 1880, their tour had been arranged by Devoy and others of the Clan-na-Gael.<sup>53</sup>

<sup>53</sup> Davitt, 169.



The success of the mission far outstripped the most optimistic expectations.<sup>54</sup> Parnell as the grandson of Admiral Stewart—"Old Ironsides"—received a national welcome, and on February 2 was permitted to address Congress, a signal honor. State and municipal gatherings were attended by all elements of the community. Men of the stamp of Henry Ward Beecher and Wendell Phillips volunteered their services. The contributions likewise came from all sources for it had been learned that Ireland was confronted by a famine which threatened to rival that of 1846-1847. Parnell, at the first meeting in New York, explained that, "Our objects in visiting this country . . . have been considerably modified by the pressure of circumstances. Originally we proposed to address you on behalf of our political organization, but the course of events in Ireland has culminated so rapidly—a terrible, far and wider spread famine is so imminent—that we felt constrained to abandon our original intention, and to leave ourselves open to receive from the people of America money for the purpose of our political organization and also money for the relief of the pressing distress in Ireland. We propose then to form two funds.

”<sup>55</sup>

Meetings were conducted in all the large cities of the East, the Middle West and Canada by Parnell, Dillon and later T. Healy. Parnell's address to Congress, however, embodied the substance of his appeal. After describing the plight of the Irish peasants, he said: "The remedy we propose for the state of affairs in Ireland is an alteration of the land tenure prevailing there. We propose to imitate the example of Prussia and of other continental countries where the feudal tenure has been tried, found wanting and abandoned; and we propose to make or give an opportunity to every tenant occupying a farm in Ireland to become the owner of his own farm. . . . We say that if it can be proved, as it

<sup>54</sup> *idem*, chap. XVI.

<sup>55</sup> *idem*, 193.

has been abundantly proved, that terrible suffering and constant poverty are inflicted upon millions of the population of Ireland, that then we may reasonably require from the landlords that, paying due regard to the vested interests and giving them fair compensation, they should terminate the system of ownership of the soil by the few in Ireland and replace it by one giving the ownership of the soil to the many.”<sup>56</sup>

Parnell alluded to a recent speech of John Bright which proposed that a government commission be empowered to assist the landlords in selling their lands to the tenants. This proposal Parnell said he would welcome as a step in the right direction, but was of the opinion that only compulsory expropriation would completely solve the issue. His reply to Bright struck hard at the root of the matter. “I ask the House of Representatives of America what they would think of a statesman who, while acknowledging the justice of a principle, as Mr. Bright acknowledges the justice of our principle that the tenants ought to own the land, shrinks at the same time from asking the legislature of his country to sanction that principle and leaves to an agitation, such as is now going on in Ireland, the duty of enforcing that which the Parliament of Great Britain should enforce.”<sup>57</sup>

Parnell’s tour was cut short in March by the news that a general election was impending. The funds collected amounted to £5,000, most of which was expended in the relief of distress during the winter of 1879-1880. Even more significant was the sentiment aroused in support of the league in America. Dillon remained behind to organize an American Land League while the enthusiasm was yet high. He was later joined by Davitt and together during the summer of 1880 they completed the task. From May to November Davitt travelled the country from coast to coast establishing branches wherever he went. He made the Land League of

<sup>56</sup> Davitt, 200-1.

<sup>57</sup> *idem*, 202.

America a reality. By June of 1881 there were in the United States and Canada over twelve hundred branches, which had at that time remitted over £100,000 to the home organization. Without that aid it is extremely doubtful whether the smallest measure of success would have been achieved in Ireland.<sup>58</sup>

### *The Election of 1880*

The election of 1880 was of great importance, not only to Parnell, but to the future of the agitation in Ireland. For Parnell undisputed control of the Irish representatives was at stake. A victory would mean, first, an acknowledgment of his leadership and, secondly, the sanction of the electorate to his active participation in the Land League. There were significant indications that Parnell would achieve his aim. The *Freeman's Journal*, whose editor had become Lord Mayor of Dublin, capitulated to the "new departure" just before the election. Dwyer Gray sent for Davitt and told him frankly that *The Freeman* was beaten, that the country was in full sympathy with the program and policy of the new movement, and that consequently his paper would henceforth give the league fair support.<sup>59</sup> Early in 1880 the Home Rule Federation of Great Britain merged with the league and the Land League of Great Britain was the result. Branches there multiplied to such an extent that both major parties had to reckon with the organized Irish vote in the industrial cities for over a score of years. Incidentally Land League propaganda was carried into Scotland to encourage the humble crofters in their struggle against the landlords.

The Land League was determined to destroy the Tory majority in Parliament. Disraeli, in a public letter to Lord Marlborough, the lord lieutenant, had condemned the league. "A danger," he wrote, "in its ultimate results scarcely

<sup>58</sup> *idem*, 320.

<sup>59</sup> *idem*, 227.

less disastrous than pestilence and famine . . . distracts that country. A portion of its population is attempting to sever the constitutional tie which unites it to Great Britain in the bond which has favored the power and prosperity of both. It is to be hoped that all men of light and leading will resist this destructive doctrine.”<sup>60</sup> The Irish voted solidly against the conservatives. The Liberals refused to enter into a compact with the Irish; in fact that party’s attitude toward Home Rule was as yet uncompromising. But one finds a gleam of sympathy running through the Liberal speeches which was lacking entirely in the Tory manifestos. Hartington condemned the rigid repression practised by the government and the absence of any effort to inquire into the reality of Irish grievances. “The Liberal party has always felt that, looking to the great and deep misgovernment under which Ireland has suffered for so many centuries, Irish agitation and discontent ought to be treated with great patience and forbearance, and that before we reverted to measures for the repression of Irish agitation or while we resorted to those measures, we ought to do the utmost to see whether the causes which have produced the state of things still remained, or were capable of being removed.”<sup>61</sup> Gladstone in his Midlothian address declared “in my opinion these two great objects of local government and the land laws ought now to occupy a foremost place in the thoughts of every man who aspires to be a legislator.”<sup>62</sup>

Parnell and his followers waged a vigorous campaign against the conservative Irish element on the one hand and the Tories on the other. Butt’s party, lacking funds, had been forced to accept candidates whose enthusiasm for the Irish cause was dubious. Parnell, confronted with a similar situation, prevailed at length upon the council of the league to lend him £2,000 from the treasury to provide needy league

<sup>60</sup> Davitt, 230.

<sup>62</sup> R. B. O’Brien, Vol. I, 210.

<sup>61</sup> *Annual Register*, 1880, 53, 54.

candidates with the necessary fees and campaign expenses. This step, though in a measure violating the league constitution, enabled the Irish leader to surround himself in Parliament with loyal men like Dillon, Sexton, McCarthy, John Redmond and many others.

The election was a triumph for Parnell and for the Irish interest. The Liberals with a majority of over one hundred took possession of the government. The Home Rulers who had won 51 seats in 1874 successfully contested 60 seats. Shortly after, on April 26, the Home Rule party met in Dublin to select its leader. Shaw was defeated by a majority of five votes.<sup>63</sup> Parnell, the league and obstruction were henceforth one, and Irish nationalism—thanks to Michael Davitt—had ceased to be a mere shibboleth.

<sup>63</sup> *idem*, 223.



## CHAPTER V

REVOLT 1880-1881

### *The Objective*

**I**MMEDIATELY after the general election a committee of Irish leaders including Parnell, Egan, Kettle, Healy and Davitt formulated a concrete plan of land reform. J. J. Louden, a barrister, was the chief architect but many of the parts were suggested by Davitt and Healy. The key to the whole scheme was contained in the declaration "that the establishment of a peasant proprietary is the only solution of the question which will be accepted as final by the country."<sup>1</sup> Parnell contributed little. His ideas on land reform were as uncertain as ever. "He had not a single suggestion to offer beyond the extraordinary proposal that we should recommend Butt's land bill. . . ."<sup>2</sup> Irish opinion, however, had advanced far beyond that shop-worn demand. Parnell thereupon "good-naturedly resigned himself to the utter rejection of this proposal, saying that he would agree to anything which the majority would decide."<sup>3</sup>

The ideas embodied in the Irish demand were constructive, but not new. The doctrine of compulsion was at root Fintan Lalor's, while the method of bringing into existence a peasant proprietary was John Bright's. Alleging that "the time has arrived when Parliament must decide whether a few non-working men or the great body of industrious and wealth-producing tillers of the soil are to own the land," the committee proposed the establishment of a department of land administration vested with the power to transfer

<sup>1</sup> Davitt, 242.

<sup>2</sup> *idem*, 241.

<sup>3</sup> *idem*.

the land from the owners to the tenants.<sup>4</sup> Where the parties had reached a voluntary agreement, the department would execute the conveyance, advancing if necessary the whole of the purchase money to the tenant. The loan would be repaid by an annuity running through thirty-five years. Secondly, where the tenant offered the landlord a sum equivalent to twenty years' rent, the department was empowered to complete the conveyance upon such terms. In other words, the landlord would be compelled to sell if an equitable price were offered. Finally, the department was given power to acquire any estate upon tendering a fair price, and to let the holdings upon it to the tenantry at a rental equivalent to  $3\frac{1}{2}$  per cent of the purchase price.<sup>5</sup> These were the main provisions, but there were others contemplating an easy system of land transfer, county registry offices and the absorption of the functions of the landed estates court by the new department. "With such a system of registration established and legal phraseology in conveyancing abolished, a holding of land might be transferred from one owner to another as cheaply as a share in a shop."<sup>6</sup>

The program contained also an *ad interim* measure designed to alleviate the prevailing distress. It was proposed to suspend for two years all ejectments for non-payment of rent in the case of holdings valued at £10 and under. In addition it was recommended that the right of the owner to obtain a rent higher than the poor-law evaluation be curtailed during a similar period.

This significant document, involving as it did the creation of a peasant proprietary and the compulsory expropriation of Irish landlords, was not signed by Davitt. He believed that the price, twenty years' purchase, was too high. A further fall in agricultural prices, he argued, would speedily reduce the newly created proprietors to the status of debtors.

<sup>4</sup> *idem*, 242.

<sup>6</sup> *idem*, 244.

<sup>5</sup> *idem*, 243.

He objected also to the omission of a guarantee that the tenants' improvements would be given full consideration in the determination of the purchase price.<sup>7</sup> The convention of the Irish party, on the last day of April, 1880, approved the whole plan and authorized the Irish parliamentary party to press for its acceptance in Parliament.

### *Failure*

In England the extent and reality of Irish distress were matters of dispute, but the Conservative government had begun to make inquiries.<sup>8</sup> In November 1879 the poor-law guardians were instructed to obtain sufficient food, bedding and clothing to meet any emergency. Meanwhile private relief funds were inaugurated by the Duchess of Marlborough, the Lord Mayor of Dublin, and later by Parnell in America. Private relief was soon acknowledged to be insufficient and the government was urged from all sides to institute relief. Northcote the Tory leader delayed, explaining that the government hesitated for fear of discouraging habits of self-reliance among the people. Up to February of 1880, the government confined its activities to lending money, through the board of works, to landlords and municipalities willing to undertake improvements and public works. The interest upon such loans was reduced to 1 per cent upon the understanding that the money was to be expended in the employment of unskilled labor.<sup>9</sup>

In February, however, the government, in possession of statistics in regard to the crop failures, reached the conclusion that the call for relief could not be explained away by the "blind hysterics of the Celt" and made haste to introduce a sweeping Relief of Distress Bill. A large fund (£1,100,000) was allocated from the Disestablishment Fund, and liberal loans were made both to communities and indi-

<sup>7</sup> Davitt.

<sup>9</sup> *ibid.*, 1880, II.

<sup>8</sup> *Annual Register*, 1879, 92, 93.

viduals. Such loans were to be repaid within fifteen years, the rate of interest being fixed at 1 per cent, not chargeable, however, during the first two years. Borrowers were pledged to employ local labor. In the poor-law unions, where this policy was not followed, the board of works was authorized to grant outdoor relief in food and fuel.

The Irish obstructionists endeavored to obtain a vote of censure on the government on the ground of needless delay, but were unsuccessful. The delay in affording relief whether justifiable or otherwise was extremely unfortunate. Each day of suffering served to drive an increasing number of men into the ranks of the Land League. When relief did finally come it was applied with such haste that much corruption ensued. Charles Russell, later lord chief justice of England, touring through the southwest of Ireland in 1880 alleged that money lent by the State to the landlords was often re-lent to the tenants at increased rates of interest, and that frequently the loan was commuted into a permanent charge in the form of increased rents.<sup>10</sup> It was a common practice also to compel the tenant to work off his arrears of rent before he received a penny in wages. In Davitt's estimation the act was more of a landlords' than a tenants' relief measure.<sup>11</sup>

Morley relates a significant incident in regard to Disraeli's retirement in 1880. A zealous supporter called to bid the fallen leader farewell. "The visitor talked gloomily of the national prospect; of difficulties with Austria, with Russia, with the Turk; of the confusion to come upon Europe from the doctrines of Midlothian. The fallen minister listened. Then looking at his friend, he uttered in deep tones a single word, 'Ireland.' "<sup>12</sup> It is clear that Gladstone on taking office also failed to recognize the true import of the crisis in Ireland. Speaking long after, he said: "I did not know, no one knew,

<sup>10</sup> R. B. O'Brien, Vol. I, 209. See also C. Russell, *New Views on Ireland*.

<sup>11</sup> Davitt, 270.

<sup>12</sup> Morley, Vol. III, 47.

the severity of the crisis that was already swelling upon the horizon, and that shortly after rushed upon us like a flood.”<sup>13</sup> No adjustment in landed relations was contemplated by Gladstone. To his mind the Irish question had been settled by the Church Disestablishment Act of 1869 and the Land Act of 1870. “The government,” said Lord Cowper, the Liberal lord lieutenant, “was not thinking of the land question when I came to Ireland.”<sup>14</sup>

The member of the government largely responsible for the administration in Ireland was Chief Secretary W. E. Forster. He was, unlike the lord lieutenant, a member of the Cabinet. Forster was a mature statesman and is remembered as the author of the Education Act of 1870. He had not sought the Irish appointment, but had consented to accept it largely because he was “not without the hope that he might be able to do something towards solving the great problem of the reconciliation of the Irish people to British rule.”<sup>15</sup> In his estimation, once tided over the economic crisis the Irish problem would lend itself to sympathetic treatment. As an initial bid for the goodwill of Ireland the Peace Preservation Act of 1875, a coercive law, was allowed to lapse.<sup>16</sup> The Cabinet as a whole heartily endorsed this move and promised every possible aid in stemming the tide of distress. “There can be no doubt that not only Forster but all the members of the new government felt sincere sympathy for the Irish sufferers. They believed that a portion of that suffering at all events was due to faulty laws, and to defects in the manner in which the law was administered and they hoped that by amendments in the existing statutes where they were necessary, and by an administration of the law at once firm, gentle and sympathetic, they would be able to

<sup>13</sup> Morley, Vol. III, 47-8. At Edinburgh, September 1, 1884.

<sup>14</sup> R. B. O'Brien, Vol. I, 227-8.

<sup>15</sup> T. W. Reid, *Life of the Right Hon. W. E. Forster*, Vol. II, 234.

<sup>16</sup> But Morley thought due to a lack of time. Vol. III, 48.



bring about a better state of things in Ireland.”<sup>17</sup> Unfortunately Forster badly miscalculated the gravity of Irish distress. He, too, believed that the community might be mended by the execution of public works.<sup>18</sup> At the same time he underestimated the strength of the Land League and the forces of discontent which it had crystallized.

Meanwhile the way to a much needed reform was pointed out by a Parnellite member, O'Connor Power. Power told the government frankly that much of the existing hardship was due to the unbridled desire of the landlords to rid their lands of tenants. Under the Act of 1870 a tenant in default of paying rent might be evicted by the landlord without any compensation whatever.<sup>19</sup> But due to an arbitrary act of God the payment of rents had become impossible. Hence the protection intended by the act had been destroyed through no fault of the tenant. The government was making itself hated by affording aid to a class whose actions in time of public calamity were inhuman. Power argued that since the landlords were able to work an injustice under cover of the law, there was sufficient reason for changing the law. He proposed that that section of the land act which denied the tenant compensation for disturbance where the tenant was evicted for non-payment of rent should be repealed.

Though he would not promise to support such a measure, Forster stated that in view of the present condition of Ireland he was willing to give a full and considerate hearing to any proposal of amelioration.<sup>20</sup> Flatly to have refused Power would have indeed been a political blunder since Forster was anxious to wean the Irish organization to the Liberal standard. On June 2 Forster wrote to Gladstone: “O'Connor Power's bill is out this morning. This is so moderate that it will not be easy to meet it with a direct negative.”<sup>21</sup> The

<sup>17</sup> Reid, Vol. II, 237.

<sup>20</sup> *Annual Register*, 1880, 70.

<sup>18</sup> *idem*, 242, Forster to Gladstone, June 2.

<sup>19</sup> Sect. 9.

<sup>21</sup> Reid, Vol. II, 242.

government, which at the beginning of the session had refused to deal with the land question, was now undecided. Forster in the House stated cordially that he was not prepared to vote against the principle of the bill and asked for time to consider it fully.<sup>22</sup> "Nobody expected that the Irish difficulty would be upon the ministry so soon," states the *Annual Register* reticently.<sup>23</sup>

Evidence from Dublin Castle convinced the chief secretary that the landlords were showing no abatement in pressing their claims in spite of the efforts of the administration to slow down the evictions. Unless the ministry stepped in between the landlords and tenants the social system of Ireland would doubtless during the coming winter suffer a shock of almost unprecedented violence. Forster therefore proposed that a temporary measure providing compensation for evicted tenants should be brought in and at the same time a strong commission should be appointed for the purpose of inquiring into the workings of the Act of 1870.<sup>24</sup> Gladstone accepted these recommendations, but as Morley states a compensation bill "was no easy dose either for the Cabinet or its friends."<sup>25</sup> Lord Landsdowne retired from the Cabinet and the Duke of Argyll showed signs of uneasiness. To the latter Gladstone wrote: "On inquiry I find reason to believe that many ejectments are on account of an inability to pay rent, caused wholly by destitution. . . . Am I to shrink from doing what is just and consistent because, as I admit, I shall be told I am doing it at the bidding of O'Connor Power? It is a sound and just rule that we should discard the fear of being thought afraid."<sup>26</sup> The Duke was won over. Gladstone's decision was considered a victory by the Irish leaders. "This was the thin wedge of Land League principles, and small as the concession was,

<sup>22</sup> *Annual Register*, 1880, 77.

<sup>24</sup> Reid, Vol. II, 243.

<sup>23</sup> *ibid.*, 70.

<sup>25</sup> Morley, Vol. III, 48.

<sup>26</sup> Quoted in Locker Lampson, 632, Gladstone to Argyll, June 14.

it was important in its disintegrating consequences. It was the first blow in Westminster at the sovereign right of Irish landlord property."<sup>27</sup> Such was the opinion of Michael Davitt.

The government attempted to incorporate compensation for ejectment as a rider to an Irish relief bill, but so strong was the opposition to this method of procedure that on June 18 it was introduced as a separate measure. Standing alone it was a small bill of thirty-five lines, but the "microscopic force of Parliamentary vision" was brought to bear on every word.<sup>28</sup> The bill provided that a defaulting tenant when evicted might obtain compensation if he proved to the satisfaction of the county court judge that he was unable to pay his rent because of crop failures during the past three seasons. The measure was temporary in scope, to remain in force until the end of 1881.<sup>29</sup> The second reading was carried on July 5 after fierce opposition. Lord Hartington's arguments proved unanswerable. "In some parts of Ireland," he said, "the impoverished circumstances of the tenant have placed in the hands of the landlord a weapon which the government never contemplated, and which enables the landlord, at a sacrifice of half or a quarter of a year's rent, to clear his estate of hundreds of tenants, whom in ordinary circumstances he would not have been able to remove at a heavy pecuniary fine. I ask whether that is not a weapon calculated to enable landlords absolutely to defeat the main purposes of the act. Supposing a landlord wished to clear the estate of a number of small tenants; he knows that this is the time he can do it, and if he should lose this opportunity he can never have it again without great pecuniary sacrifice."<sup>30</sup>

The opposition dubbed Forster's bill "payment by reason of non-payment" and attacked its principles recklessly. But

<sup>27</sup> Davitt, 260.

<sup>29</sup> *ibid.*

<sup>28</sup> *Annual Register*, 1880, 80.

<sup>30</sup> Quoted in R. B. O'Brien, Vol. I, 231-2.

these staunch defenders of property rights failed to take into consideration that in time of public calamity the well-being of the community should take precedence over the interest of a class. Chaplin, for instance, advanced the thesis that the main result would be "to foster the notion so sedulously promulgated by agitators in Ireland, that every man who by any undertaking or promise has induced another to put him in possession of land, becomes thereupon endowed with a right to retain that possession, though he may violate the promises by which it was procured."<sup>31</sup> The principle of the bill was indicted on the grounds that it would encourage a dangerous agitation; that it would lead peasants to believe that the payment of rent in any form was an injustice; that it would deprive the landlord of his only means of enforcing the payment of rent and would oblige him to choose between what was due him or pay seven years' rent in order to get one; and finally, that distress should not be relieved at the expense of one class.<sup>32</sup> These arguments did not prevail in the House of Commons, but in the upper chamber the bill was thrown out before the committee stage was reached. "It was said that if all the Opposition peers had stayed away, still the ministers would have been beaten by their own supporters."<sup>33</sup>

The rejection of the Compensation for Disturbance Bill moved Forster deeply. His biographer tells us: "He saw in it the beginning of the worst time the English government had ever had in Ireland; he believed firmly that the landlord interest in rejecting this measure had inflicted an irremediable wrong upon their own class, whilst they had at the same time afforded the opponents of English rule an excuse for a violent resistance to the law. It was the gravity of the blunder thus committed by the Peers that stirred him with a sense of indignation; and it ought to be said that time did not diminish

<sup>31</sup> *Annual Register*, 1880, 81.

<sup>32</sup> *ibid.*, 82.

<sup>33</sup> Morley, Vol. III, 49.

his feeling upon this point.”<sup>34</sup> So far as Ireland was concerned the government was sandwiched between an enraged Irish party and an irreconcilable House of Lords. Had his bill been passed Forster might have been able to regard his task in Ireland with more hope. Some comfort was granted him when he received assurances that the government would, during the next session, sponsor a bill dealing with the whole question of land tenure. “In the meanwhile he determined to struggle on and to tide over the dark winter which lay before him as best he might in view of the coming legislation.”<sup>35</sup>

The repudiation of Forster’s good intentions was grist for the mill of the Irish politicians. Compensation was a necessary measure but it was also the mildest of demands. The Irish leaders could, with justice, point to the rejection of the bill as full proof that the English had changed in no degree and despite their professions preferred to govern Ireland in accordance with English rather than Irish ideas. And when Hartington coolly informed them that no further concessions would be considered, the Irish members felt that they had nothing to lose in stirring the temper of the House for the benefit of their constituents and American supporters. Ministers were defied at every turn, the Irish estimates were fiercely obstructed, and the abolition of the House of Lords was brazenly argued. This display continued until the close of the session on September 7.

### *Moral Coventry*

The parliamentary recess lasted from September 1880 until January of the following year. It was during this brief period that Parnell advanced from the position of the head of the party to that of leader of the Irish people—their “uncrowned king.” When the Nationalist members returned en masse to Ireland, they found the country in a turmoil. The

<sup>34</sup> Reid, Vol. II, 249.

<sup>35</sup> *idem*, 250.



people were in want, were unable to pay their rents, and the landlords were pressing their advantage. During the year 1879 there had been over 6,000 evictions and in 1880 the number exceeded 10,000.<sup>36</sup> Agrarian outrage had increased in proportion to the number of evictions; in 1879 there were more than 800 and in the following year over 2,500. The refusal of the government to intervene had forced the people to fall back upon their own resources.

Among the peasants, however, there was fast growing up a sense of purpose and power. The Land League was rapidly consolidating, striving to attain its goal of two hundred branches with five hundred men in each. American support rendered their position less precarious and less dependent upon circumstance. Nevertheless direct action was essential; the movement to the workhouse, the city slum and the emigrant ship must be arrested. The ear of the government was turned to and the eyes of the world were fixed upon Parnell. Would he be able to harness and utilize the dynamic force which the agitation had aroused, or would it run amuck and destroy him? Physical Force, the arch-enemy, was lurking on the horizon. There were rumors of threats, moonlighting and uglier outrages. The incendiary doctrines of Ford's *Irish World* were circulating and working like yeast upon the emotions of the distressed. And not the least of Parnell's worries arose from the recklessness of some of his colleagues. Smarting from defeat, they went round the country fanning the agitation into flame. A single resort to Physical Force would enable the government to outlaw the league and destroy the whole structure of the resistance.

The aim of the Land League was to secure a reduction of the rack rents and eventually to found a peasant proprietary. Parnell was convinced that these ends could be attained only through constitutional means. His first task was to forge the weapons. Throughout the year 1879 he had advised the

<sup>36</sup> 6,239 and 10,457, respectively.

peasants to do two things: to keep a firm grip on their homesteads and to remain within the law and the constitution. His main interest, however, had been centered upon political affairs: legislative action, obstruction and the quest for party leadership. The agitation was secondary and was left to Davitt and his disciples. In November 1879 it became necessary for Parnell to take charge of a protest meeting at Bala, Mayo. Davitt and others were in prison. On the appointed day Parnell led a procession of eight thousand peasants to the scene of an eviction. Troops were present to see that the law was not interfered with. The situation was an ugly one, but there was no bloodshed. Furthermore, the landlord, confronted by the organized sentiment of the community, dared not carry out the eviction.<sup>37</sup> This experience made a profound impression upon Parnell.

In September 1880 the need for action had become imperative. Parnell was able to act with a free conscience because every other door was closed. At Ennis, therefore, on September 9 Parnell laid down a plan of action that was to be nation-wide. "Depend upon it," he said, "that the measure of the land bill of the next session will be the measure of your activity and energy this winter; it will be the measure of your determination not to pay unjust rents; it will be the measure of your determination to keep a firm grip on your homesteads; it will be the measure of your determination not to bid for farms from which others have been evicted, and to use the strong force of public opinion to deter any unjust man among yourselves—and there are many such—from bidding for such farms. If you refuse to pay unjust rents, if you refuse to take farms from which others have been evicted, the land question must be settled in a way that will be satisfactory to you. It depends, therefore, upon yourselves, and not upon any commission or

<sup>37</sup> M. O'Hara, *Chief and Tribune*, 110 ff.

any government. When you have made the question ripe for settlement, then, and not till then, will it be settled.”<sup>38</sup>

Success depended upon two vital factors, each of which the people themselves could control: abstention from outrage and absolute loyalty. “Now what are you to do,” Parnell asked, “to a tenant who bids for a farm from which another has been evicted? [*Shoot him!*] I think I heard somebody say ‘Shoot him!’ I wish to point out to you a very much better way—a more Christian and charitable way, which will give the lost man an opportunity of repenting. When a man takes a farm from which another has been unjustly evicted, you must shun him on the roadside when you meet him; you must shun him in the streets of the town; you must shun him in the shop; you must shun him in the fair-green and in the market-place; and even in the place of worship, by leaving him alone; by putting him into a moral coventry; by isolating him from the rest of his country, as if he were the leper of old—you must show him your detestation of the crime he has committed; and you may depend upon it, that there will be no man so full of avarice, so lost to shame, as to dare the public opinion of all right-thinking men and to transgress your unwritten code of laws.”<sup>39</sup>

A way was found, too, of putting an offending landlord into a kind of moral coventry. In November 1880 Captain Boycott, the agent of Lord Erne, refused to accept the rents which the tenants offered. He demanded payment in full and threatened eviction. Whereupon his servants deserted him, shop-keepers refused to sell to him and he was soon completely isolated. He was unable to secure men to harvest his crop. Orangemen, under protection of troops, came to the rescue, but “every pound of potatoes and every turnip cost the government a shilling.”<sup>40</sup> Such was the origin of boycotting upon which the league came to rely in dealing with hostile landlords.

<sup>38</sup> Quoted in O’Hara, 144.

<sup>39</sup> *idem*, 144-5.

<sup>40</sup> *idem*, 147-8.

On the basis of actual experience the league was enabled to draw up a plan of campaign. Among its most formidable "aggressive moral force" mandates were the following: "All process-serving operations and evictions were to be given the greatest possible publicity; families evicted for non-payment of unjust rents were to be supported; embargoes were to be laid upon all evicted farms; land-grabbers were to be socially excommunicated and finally the league would undertake to defend in the courts all persons prosecuted for resisting the legal agencies set in motion by the landlords against the homes of the tenantry."<sup>41</sup>

English opinion expected little to come of this policy. "Reasoning from ordinary notions of race, the most Celtic of Celtic peoples and therefore the most subject to blind mysteries and the most incapable of steady combination could have hardly been expected to give effect to an advice which demanded for its fulfilment wide organization and rigid discipline. The realization of the idea in the system of boycotting was as much a surprise to the agitators as to the rest of the world."<sup>42</sup> The policy of Parnell soon became so effective that the authority of the Land League rapidly undermined and threatened to supplant that of the government in Ireland. Henceforth the league punished at will landlords and their agents, guilty tenants and all other enemies of the new order. Priests, it is related, lost their tithes, and doctors their fees.<sup>43</sup>

The loyalty of the peasants was severely tested during the late fall of 1880. An excellent harvest was gathered and many showed signs of wavering. The league leaders redoubled their efforts and the utterance of Parnell—"The extreme limits of our demands when the time comes must be measured by the results of your exertions this winter"—was dinned into the minds of all. The peasants were warned not to pay,

<sup>41</sup> Davitt, 311-12.

<sup>42</sup> *Annual Register*, 1880, 109.

<sup>43</sup> *ibid.*, 122.

under any circumstances, the unjust rents which were demanded of them; instead they were commanded to hold the harvest. The tenant was directed to offer his landlord, not the full rent, but a sum varying from thirty to fifty per cent below that amount. These so-styled "fair rents" were based upon an old government valuation of the land.<sup>44</sup> Pledges to follow this decree were secured in open meeting in many communities.<sup>45</sup>

The financing of the policy of "aggressive moral force" was the work of the American Irish, who had accepted most cheerfully their function of giving. Parnell had hoped for £5,000 a year to carry on the agitation, but the contributions far exceeded that figure. Toward the close of 1880 the income of the league exceeded £1,000 a week, nine-tenths of which came from the United States.

Parnell's mission there had been followed by a second visit of Davitt, who successfully toured America in behalf of Ireland. Three groups had emerged in the United States and it required constant skill and attention to prevent any one from usurping the control of the American Land League. The New England group was strongly partisan to Parnell; the radical *Irish World* following, led by Ford, was partial to Davitt; while the Clan-na-gael, headed by Devoy, was bent upon an independent policy. The Clan, explains Davitt, felt that it had a kind of prescriptive right to control the American League, but its rapid growth among people and societies non-revolutionary in purpose rendered this policy most difficult. Davitt, however, during his stay from May until November 1880, was able to substitute a spirit of healthy rivalry in the place of the friction which threatened. This unanimity of purpose was fairly well maintained until the advent of the Kilmainham Treaty in 1882.<sup>46</sup>

Parnell refused during the recess to commit either him-

<sup>44</sup> The Griffith valuation of 1852.

<sup>45</sup> *Annual Register*, 1880, 119.

<sup>46</sup> See R. B. O'Brien, Vol. I, 241-3, and Davitt, 252, 258, 288.



self or the league to any specific mode of settlement. "What was wanted," he said, "was the will on the part of the English people to settle the Land Question, and the object of the agitation was to produce that will. Once minded to settle the question, once convinced that a settlement could not be evaded or postponed, they would settle it."<sup>47</sup> Here, too, the Irish leader showed rare judgment. Among his adherents were low-water reformers who favored Butt's three F's. It would satisfy them to have the government commute all rents into permanent fixed charges. The high-water reformers, following Davitt's ideas, claimed that the tenants, in paying rack rents for centuries, had long since paid the landlords the fee-simple of the land and in justice were not bound to pay anything more. There was a vast difference between the two opinions. Furthermore, were Parnell to adopt the doctrinaire aims of Davitt, he would be unable to gain so much as a hearing from the government. On the other hand if his demand were too mild, there was a danger of losing American support and of giving rise to faction within the league.<sup>48</sup>

Though plunged into an Irish revolution which had for its immediate object the winning of agrarian reform, Parnell never lost an opportunity of reminding the people of the ultimate goal to which he had dedicated his life. "I wish to see the tenant farmers prosperous," he told a Galway audience in the midst of the agitation, "but large and important as this class of tenant farmers is, constituting as they do, with their wives and families, the majority of the people of the country, I would not have taken off my coat and gone to work if I had not known that we were laying the foundation in this movement for the regeneration of our legislative independence."<sup>49</sup> Parnell once told Davitt that in the event of Home Rule it would be wise to drop the land

<sup>47</sup> *Annual Register*, 1880, 109-10.      <sup>49</sup> R. B. O'Brien, Vol. I, 240.

<sup>48</sup> *ibid.*, III.

question. He never shared Davitt's socialistic views concerning land nationalization.<sup>50</sup>

The Land League agitation was in the eyes of the government both violent and lawless—perhaps if it had not been there would have been no success whatever. From Parnell down there was fierce denunciation of the landlords and the government. Indeed the English press regarded many of Parnell's utterances as veiled incitements to outrage. But his were mild in comparison with those of other league leaders. Undoubtedly their frenzied exhortations had the effect of stimulating outrages. That the Land League actually connived at crime is, however, an unfounded accusation.

Toward the end of 1880, when the agitation was running high and crime was in the air, Davitt deliberately undertook an anti-crime crusade. In place after place he pointed out the futility of crime in contrast with the approved method of ostracism. A circular letter was drafted and broadcast, warning the league branches against the pitfalls of outrage.<sup>51</sup> No risk of unpopularity or adverse criticism would prevent him, Davitt told the people, from raising his voice in emphatic condemnation of any and every act which would strengthen the hands of the landlords against the Land League and alienate the moral support of public opinion throughout the world.<sup>52</sup> "Nothing tends to injure our cause with the American people so much," he said, "as the occasional acts of violence which injustice prompts some to commit in parts of the country. . . . Let the world see that we have higher gains in sight and a nobler object in view than stooping to war on any miserable individual while the system that makes him the instrument of tyranny still stands upon our shores and frowns upon the happiness and prosperity of our nation."<sup>53</sup>

None the less it was utterly impossible for the league

<sup>50</sup> R. B. O'Brien, Vol. II, 158-9.

<sup>52</sup> *idem*, 149.

<sup>51</sup> O'Hara, 151.

<sup>53</sup> *idem*, 148-9.

to prevent the commission of deeds of vengeance. For many years there existed in England the feeling that the Land League was responsible for the outrages which prevailed in Ireland during the years of the agitation. Davitt on the other hand makes the claim that had it not been for the efforts of the league in sheltering and feeding the evicted, crime would have flourished unarrested. With the huge growth in membership, it became more and more difficult for the leaders to exercise control, especially in the remote provinces.

In the report of the Parnell commission to the Crown in 1890, based upon the examination of 450 witnesses, it was stated: "We find that the respondents did not directly incite persons to the commission of crime other than intimidation, but that they did incite to intimidation, and the consequences of that incitement was that crime and outrage were committed by the persons incited. . . . We find that it has not been proved that the respondents made payments for the purpose of inciting persons to commit crime. . . . Some of the respondents, and in particular Mr. Davitt, did express bona fide disapproval of crime and outrage, but . . . the respondents did not denounce the system of intimidation which led to crime and outrage, but persisted in it with knowledge of its effect. . . . It has not been proved that they subscribed to testimonials for, or were intentionally associated with, notorious criminals, or that they made payments to procure the escape of criminals from justice. We find as to the allegation that the respondents made payments to compensate persons who had been injured in the commission of crime, that they did make such payments."<sup>54</sup> In the absence of more painstaking investigation, the verdict of the Parnell commission will remain the judgment of history.

### *Coercion*

Gladstone in a memorandum written years later shows clearly the situation confronting the administration in the

<sup>54</sup> Report of Judges, Parnell Commission. See also Davitt, 605-6.

fall of 1880. "Late in the session came the decisive and disastrous rejection by the House of Lords of the bill by means of which the government had hoped to arrest the progress of disorder and avert the necessity for measures in the direction of coercion. The rapid and vast extension of agrarian disturbance followed; as was to be expected, this wild excess of landlordism, and the Irish government proceeded to warn the Cabinet that coercive legislation would be necessary."<sup>55</sup> But, in spite of the rejection of the compensation bill in August, Forster still hoped to solve the Irish problem by means of remedial measures. With the great increase of agrarian crime in September and October, his task, however, had become more difficult. But he was resolved that the party of discontent should not be allowed to ride rough-shod over the law or the rights of the orderly section of the community. As he saw it, his first duty was the protection of the social fabric in Ireland against those forces which were now threatening to submerge it.<sup>56</sup>

Forster was distinctly opposed to coercive legislation: first, because the Liberal ministry was opposed to it on principle; and secondly, because he felt strongly that the adoption of such legislation would bring to an end his sincere desire to improve conditions in Ireland. The Irish, however, were inclined to look upon the mild policy of the government as a sign of weakness. It was well known that both Bright and Chamberlain would resign rather than agree to coercion. By increased lawlessness and disorder it was hoped to embarrass the ministry to the extent of driving it into disruption.

Under such circumstances the chief secretary soon reached the conclusion that a hard blow must be dealt the league. In fact it was fast usurping all the functions of government. He determined, therefore, to prosecute the leaders of the movement.<sup>57</sup> This was a grave step to take, but he defended it upon

<sup>55</sup> Morley, Vol. III, 49.

<sup>56</sup> Reid, Vol. II, 253-4.

<sup>57</sup> *idem*, 255-8, Forster to Gladstone, October 8.

many grounds; first, it was the only strong action that could be taken without coercive measures; secondly, it would be a sincere effort to punish men who were without doubt great criminals; thirdly, it would be proof that the government neither feared the agitators nor were, as alleged, in league with them; and finally, it would be clearly demonstrated that the government did not mean to let Parnell's law be put in place of the law of the land. On the other hand there were serious consequences to be considered. The prosecutions would serve to unify the agitators; they would arouse great enthusiasm and support for Parnell, especially in America; they would drive all the moderates into his arms; and finally Parnell would probably obtain the triumph of no conviction.<sup>58</sup> It was Forster's belief that the outrages would diminish if the leaders were imprisoned. But if the prosecutions failed to restore the authority of the law, then the government could make out a good case for coercion.

On October 23, the government announced its intention of prosecuting fourteen of the league leaders, among whom were Parnell, Dillon, Biggar, Sexton, Egan, and Brennan. They were charged with conspiracy to prevent the payment of rent and to defeat the legal processes for the enforcement of rent; to prevent the letting of farms from which tenants had been evicted, and to create ill-will between different classes of Her Majesty's subjects.<sup>59</sup> The indictment was not filed until November 2 and the date for the trial was fixed for December 28. But long before the trial commenced it was perceived that the government had committed a blunder. The leaders of the league ridiculed the indictment and their language became more violent than ever. Hold-outs among the Irish politicians immediately joined the league. The Irish in English and Scotch towns were aroused to a high pitch of excitement. A "defense fund" campaign was instituted in America which brought the revenue up to £1,000 a week. The

<sup>58</sup> *idem*.

<sup>59</sup> Reid, Vol. II, 259-60.



league branches began to serve "subpoenas" upon the landlords and their agents, and November rents were paid strictly in accordance with Griffith's valuation.<sup>60</sup> "I said in one of my last letters," wrote Forster, "that I hoped the outrages were diminishing in atrocity. I am not sure of the fact—and while we have eight men under personal protection, we are only preventing murder by the police surveillance." Landlords who had pressed their evictions in September when they had heard of the intention of the government to introduce a land bill, suddenly desisted. "The landlords fear to evict. Parnell is quite right in saying that the league has stopped evictions, though he ought to have said 'the league and its attendant outrages.' " <sup>61</sup>

In the same letter, written on November 8, Forster again stated his views on coercion. "As regards the immediate question, viz., the suspension of the H.C. Act, it is impossible for anyone to dislike it more than I do. On public grounds I both fear and hate it, probably as much as you, and privately I hardly need say that no man could have a more disagreeable task or one more certain to involve him in discredit than would be my fate if I have to bring it forward. But I doubt if in any other way we can keep peace and protect life and prevent anarchy."<sup>62</sup> Speaking at Guildhall the next evening Gladstone served a warning which effectually dissipated the notion that the government would in no circumstances have recourse to exceptional means of maintaining order. "The obligation incumbent upon us to protect the life of every citizen in the enjoyment of his life and his property might under certain circumstances compel us to ask for an increase of power and although we never anticipate such a contingency nor imagine it to exist until it is proved by the clearest demonstration, yet if that contingency were realized, if the demonstration were afforded you may rely on it that we should

<sup>60</sup> *Annual Register*, 1880, 116.

<sup>62</sup> *idem*.

<sup>61</sup> Reid, Vol. II, 263-4, Forster to Gladstone, November 8.

not shrink from acting in the obligation it would entail.”<sup>63</sup>

Meanwhile, Forster was doing all in his power to stave off anarchy. He was hurrying the prosecutions, proceeding against actual outrages in the provinces, and cramming the worst counties with police. “I am, however, getting to the end of my police,” he wrote.<sup>64</sup> In fact there was at this time in County Galway alone a policeman for every forty-seven male adults and a soldier for every ninety-seven. By the middle of November, Forster had made no headway and recommended a severe measure of coercion and, after the country had been made to respect the authority of the law, a strong measure of land reform.<sup>65</sup> Gladstone wrote at a later time: “Forster allowed himself to be persuaded by the governmental agents in Ireland that the root of the evil lay within small compass; that there were in several parishes a certain limited number of unreasonable and mischievous men, that these men were known to the police, and that if summary power were confided to the Irish government, by the exercise of which these objectionable persons might be removed, the evil would die out of itself. I must say I never fell into this extraordinary illusion of Forster’s about his ‘village ruffians.’ But he was a very impracticable man placed in a position of very great responsibility.”<sup>66</sup> Both the chief secretary and the lord lieutenant were convinced that the actual perpetrators of the crimes were Fenians and old Ribbonmen—“mauvais sujets.” They feared that the Land League would not be able to control such desperadoes. “The sudden imprisonment of some of those known to instigate or commit these crimes would strike general terror in a way that nothing else would, for no man would know now whether he was suspected or whether his own time might not come next.”<sup>67</sup>

Forster and Cowper insisted that Parliament be immedi-

<sup>63</sup> *Annual Register*, 1880, 117.

<sup>65</sup> Morley, Vol. III, 51.

<sup>64</sup> Reid, Vol. II, 262.

<sup>66</sup> *idem*, Vol. III, 49.

<sup>67</sup> R. B. O’Brien, Vol. I, 257, Cowper to the Cabinet, November.

ately convened and coercion introduced. To this Bright and Chamberlain were irreconcilably opposed and threatened to resign. The question threw the ministry into confusion, but a compromise was finally reached postponing the opening of Parliament until January 6. In the interim Forster was to continue to govern under the ordinary law, but if conditions had not improved by then the ministry would entertain coercion.<sup>68</sup> "I have come to the conclusion that I must take the last alternative," wrote Forster, "throwing the responsibilities upon my colleagues, especially upon those of them, who as it were, force me to do so; and I therefore am willing to try to get along with the present powers till early in January, but I cannot undertake to do so longer."<sup>69</sup> Meanwhile, more troops were poured into Ireland; and the chief secretary began to frame coercive measures.<sup>70</sup>

The government was correct in its judgment that it would gain little from the State prosecutions. The case against the league rested entirely upon speeches delivered in various parts of Ireland by the traversers and in mottoes, phrases and legends inscribed on banners carried at demonstrations. The league had the right to examine unlimited witnesses, which it proceeded joyfully to do. Parnell and his colleagues absented themselves without leave to attend the opening of Parliament and returned on January 26 to hear the verdict of the jury. The jury was unable to agree, as was expected. The prosecution had served only to consolidate the strength of the league rather than aid the government.<sup>71</sup>

The Queen's speech on the opening of Parliament on January 7 summarized the situation in Ireland, pointing out that though an abundant harvest had relieved the distress yet the social condition of the country had assumed an alarming

<sup>68</sup> *Annual Register*, 1880, 117.

<sup>69</sup> Reid, Vol. II, 271, Forster to Gladstone, November 23.

<sup>70</sup> *Annual Register*, 1880, 118; Reid, Vol. II, 284.

<sup>71</sup> See Davitt, chap. xxii.

character. Because of the impossibility of procuring evidence justice had been frustrated. An extended system of terror prevented the exercise of private rights and the performance of civil duties. To meet a situation where ordinary powers of the law were insufficient, proposals would be submitted asking for additional powers. This speech also gave notice of constructive measures bearing upon land and local government reform. In particular it was alleged that the Act of 1870, due to the strain of recent years, was insufficient to meet the needs of the time. A further development of its principle was recommended along with an extension of facilities for land purchase.<sup>72</sup>

Faced with the threat of coercion, the duty of the Parnellites was plain. They would obstruct. The address was carried only after eleven nights of fierce debating. The Tory was content with a nominal opposition, for the task was ungrudgingly undertaken by the Nationalists. Forster made a brave effort to force the Parnellites to abandon their reserve and declare themselves either as enemies of crime or as active accomplices of the outrage-mongers. This attempt gave rise to a bitter duel between Parnell and Forster.

The Coercion Bill was brought in on January 24. On motion of Gladstone it was resolved that the bill should take precedence over all business. The measure was unexpectedly severe, being a straightforward suspension of the Habeas Corpus Act. Its provisions were simple. It empowered the lord lieutenant to issue a warrant for the arrest of any person whom he might reasonably suspect of treasonable practices or agrarian offenses and to detain such person as an unconvinced prisoner for a period not to exceed any time after September 30, 1882. Gladstone had not wished for a degree of coercion which would abolish the right of trial before imprisonment. "I felt the pulse of various members of the Cabinet, but I could obtain no sympathy and to my dismay

<sup>72</sup> *Annual Register*, 1881, 5, 6.



both Chamberlain and Bright arrived at the conclusion that if there was to be coercion at all, which they lamented, there was something simple and effective in the suspension of the Habeas Corpus Act which made such a method preferable to all others. I finally acquiesced. It may be asked why. My resistance would have broken up the government or involved my own retirement. My reason for acquiescence was that I bore in mind the special commission under which the government had taken office. It related to the foreign policy of the country, the whole spirit and effect of which we were to reconstruct. This work had not yet been fully accomplished, and it seemed to me that the effective prosecution of it was our first and highest duty. I therefore submitted."<sup>73</sup>

X The first stage of the measure occupied five days and the second reading was debated through twenty-two sittings. The bill did not become law until March 2. It was immediately followed by an Arms Bill. Forster told the House that "the Land League law is supreme and there is a reign of terror over the whole country."<sup>74</sup> Agrarian crimes committed in 1880 exceeded by 600 the total of any year since 1844 despite the decline of the population from 8,000,000 to 5,000,000. "After all, law rests in the power to punish its infraction. There being no such power in Ireland at the present time, I am forced to acknowledge that to a great extent the ordinary law is powerless; but the unwritten law is powerful because punishment is sure to follow its infraction. Take away this power to punish for infraction of the unwritten law and it will become an empty form."<sup>75</sup>

X The Irish fought the measure fiercely throughout its course. In committee countless amendments were proposed, even to designating the temperature of the prisoners' cells. One sitting consumed twenty-two hours, and another, unsurpassed in parliamentary annals, over forty-one hours.

<sup>73</sup> Morley, Vol. III, 50.

<sup>75</sup> *idem*, 294-5.

<sup>74</sup> Reid, Vol. II, 294.



Suspension of Irish members was frequent; and on one occasion thirty-six members were expelled. They spoke incessantly, "sometimes rising to the level of mediocrity, and more often grovelling amidst mere trash in unbounded profusion."<sup>76</sup> This display of the "empty verbosity of exuberant rhetoric" and its accompanying tactics led to great changes in parliamentary procedure and to the adoption of the cloture. After the passage of the act, the government turned to the question of land reform.

<sup>76</sup> Morley, Vol. III, 51.

## CHAPTER VI

### GOVERNMENT REGULATION 1881

“**I** MUST make one admission,” said Gladstone during the session of 1893, “and that is without the Land League, the Land Act of 1881 would not now be on the statute book.”<sup>1</sup> Guided by Parnell’s famous maxim, the league during the winter of 1880-1881 carried on an agitation which threw the Irish administration into consternation. “I do not know that it is an exaggeration to say that something like a general massacre of all the landlords and agents not under police protection is a conceivable and possible event,” wrote the alarmist Cowper in November.<sup>2</sup> Under such circumstances Gladstone admitted the necessity of land reform. His suggestion that the Act of 1870 must undergo a final adjustment did not arouse much enthusiasm, as he soon learned. “It is with regret, and perhaps with mortification, that I see the question of land reform again assuming or having assumed its large proportions. My desire certainly would have been to remain on the basis of the Act of 1870. . . .”<sup>3</sup> Indeed by January the administration in Ireland was convinced that a measure which did not at least concede the three F’s would find little favor. “I cannot help telling you,” wrote Forster, “that I believe the feeling for the three F’s in Ireland prevails even more than I had supposed. . . . We must oppose the Irish members on the Protection Bills, . . . but it is another matter opposing the overwhelming Irish feeling on the most important subject of legislation.”<sup>4</sup> Glad-

<sup>1</sup> R. B. O’Brien, Vol. I, 293. In the House, April 21, 1893.

<sup>2</sup> *idem*, 258, Cowper to Gladstone, November 13, 1880.

<sup>3</sup> *idem*, 260, Gladstone to Cowper, November 24.

<sup>4</sup> Reid, Vol. II, 292-3, Forster to Gladstone, January 10, 1881.

stone has been severely criticized for failing to recognize the facts and for not having brought forward a land act during the session of 1880. But the truth of the matter was, as Morley expresses it, that "neither Mr. Gladstone nor Forster nor the House of Commons was at all ready to accept the three F's."<sup>5</sup>

There was another factor in Gladstone's conversion to the three F's. The Richmond commission, appointed by the preceding government, after analyzing the prevalent distress and discontent, arrived at the conclusion that the Act of 1870 had done nothing towards a satisfactory solution of the land question.<sup>6</sup> Furthermore a minority report insisted that a reform on the basis of the three F's was indispensable for the security of the tenant and for the prosperity of Ireland.<sup>7</sup> Whatever doubt existed in Gladstone's mind concerning the wisdom of these findings was soon dispelled. The Bessborough commission had been appointed in July 1880, at Forster's behest, to examine into the workings of the Act of 1870. When it was told him that the commission had reported for the three F's, he remarked, "It is incredible!"<sup>8</sup> The conclusions of the commissioners were startling. The Act of 1870 had failed to protect the tenant from increases in rent and should be abolished. The immediate adoption of the three F's was recommended. In addition the commissioners were favorably disposed to an extension of the land-purchase principle, advising that the tenant should be advanced as much as four-fifths of the purchase money. It was thought that much land would be thrown upon the market were the tenants afforded aid, and that such legislation would obviate the necessity of State-aided emigration and grants for the reclamation of waste lands. "The gravity of the present occasion," states the report, "does indeed require that the

<sup>5</sup> Morley, Vol. III, 56.

<sup>6</sup> Appointed August 1879; reported January 1881. Montgomery, 157-8.

<sup>7</sup> *Annual Register*, 1881, 79, 80.

<sup>8</sup> Morley, Vol. III, 56.

remedy now to be proposed for an admitted grievance should be complete. We wish to place on record our decided opinion that unless the measure is a full and exhaustive one, going to the roots of the whole matter and settling it permanently, it would be better not to interfere with the question at all.”<sup>9</sup>

Anxious though the government was to try its hand at remedial legislation, it was determined not to reveal its proposal so long as the agitation continued unchecked. Land reform was, therefore, held in abeyance. But on the very day that the Arms Bill received royal assent, Gladstone announced his decision to introduce a land bill. Immediately the press began to storm public opinion with its prognostications. Irish Liberal and Nationalist organs were unanimous in declaring that the mere patching up of the Act of 1870 would be scouted as an insult by the Irish people. The three F’s coupled with adequate provisions for the creation of a peasant proprietary were boldly demanded. Anything short of this program should be summarily rejected by the Irish members. The Conservative organs, mainly in Ulster, fearing that Gladstone might embark upon a policy of confiscation, maintained that it was the duty of the Conservative party in both houses to protect the rights of property in Ireland. Many, however, were willing that the grievances of the tenants should be redressed if no injury were done the landlords. English opinion was vague, with the notable exception of the London *Economist*. This journal fearlessly condemned remedies based upon the three F’s and indicated that the solution lay in the direction of a peasant proprietary. Generosity on the part of the English democracy at this juncture would in the long run be rewarded by the preservation of the empire from disruption. Matthew Arnold, while solemnly condemning the suggestions of the silk-stockings reformers as novel and fantastic, actually proposed that a royal commission consisting of an English chief

<sup>9</sup> *Annual Register*, 1881, 81.

justice, an English capitalist and an English writer be given power to settle the various difficulties in Ireland.<sup>10</sup>

On April 7, Gladstone in a businesslike speech unfolded his Irish land bill, "probably the most important measure introduced into the House of Commons since the passing of the Reform Bill."<sup>11</sup> He, himself, told Selborne that it was "the most difficult measure he had ever known to come under the detailed consideration of a Cabinet."<sup>12</sup> Few British members understood it and none mastered it. Northcote believed that though the bill was carried by two to one there was hardly a man in the House beyond the Irish ranks who cared a straw about it. Unable to grasp its details, "the Whigs were disaffected about it, the Radicals doubted it and the Tories believed that property as a principle was ruined by it."<sup>13</sup> On the one hand Gladstone was confronted by two irreconcilable groups from Ireland who fought each other clause by clause; while on the other he had to defend the whole mechanism from the onslaughts of men who allowed themselves to be guided by the popular economic misconceptions. But as in 1870 the master was equal to the task. "As week after week and month after month passed by, the spectacle of Mr. Gladstone, almost single-handed, defending each line of every clause of his bill, filled friends and opponents alike with admiration of his vast and versatile genius."<sup>14</sup>

### *The Act of 1881*

The struggle to carry the bill lasted from early in April until the middle of August.<sup>15</sup> It will be convenient at this point to analyze the act, then to summarize the various objections to the principles which it embodied.<sup>16</sup> Gladstone, retaining the myth of amending the Act of 1870, reverted with

<sup>10</sup> *Annual Register*, 1881, 81-2.

<sup>11</sup> *ibid.*, 78.

<sup>12</sup> Morley, Vol. III, 53.

<sup>13</sup> *idem*, 54.

<sup>14</sup> *Annual Register*, 1881, 78.

<sup>15</sup> From April 7 until August 22.

<sup>16</sup> For an accurate, brief analysis see Montgomery; for a detailed legal interpretation see Cherry, Wakeley and Maxwell.



frequency to its provisions, thus giving rise to what Montgomery terms a "paralyzing subtlety." It would have been wiser, all critics are agreed, to have wiped the slate clean than to have risked the obscurity and lack of comprehensiveness with which the act was clothed. The measure was entitled, "an Act to further amend the law relating to the occupation and ownership of land in Ireland and for other purposes relating thereto."<sup>17</sup>

The first of the three F's discussed is that of Free Sale.<sup>18</sup> All tenants,<sup>19</sup> save a few small groups,<sup>20</sup> were enabled to sell their holdings for the best price obtainable,<sup>21</sup> provided certain regulations were complied with. The tenant right could be sold to one person only.<sup>22</sup> Subdividing and subletting were not permissible, save with the consent of the landlord.<sup>23</sup> The tenant was obliged to declare to the landlord his intention of selling,<sup>24</sup> the name of the purchaser and the price agreed upon.<sup>25</sup> The landlord on receiving notice of the sale was given the opportunity of buying in the tenancy.<sup>26</sup> He retained the right of rejecting the incoming tenant upon reasonable grounds;<sup>27</sup> but the reasonableness of his objections had to be sustained by the courts.<sup>28</sup> The incoming tenant was specifically barred should he fail to satisfy the acknowledged claims of the landlord against the outgoing tenant for arrears of rent or for breaches of covenant.<sup>29</sup> Furthermore, to afford the landlord additional protection, it was enacted that any sum due him would be a first charge upon the purchase money.<sup>30</sup>

The whole matter of improvements was simplified. Permanent improvements made by the landlord might, with

<sup>17</sup> 44 and 45 Vict. c. 49.

<sup>18</sup> Sect. 1. See Cherry, etc., 230-41.

<sup>19</sup> Sect. 57.

<sup>20</sup> Sect. 58. See Cherry, etc., 231.

<sup>21</sup> Sect. 1. See Cherry, etc., 232.

<sup>22</sup> Sect. 1 (3) and (16). See Cherry, etc., 233-4.

<sup>23</sup> Sect. 1 (6). See Cherry, etc., 236.

<sup>24</sup> Sect. 1 (6).

<sup>25</sup> Sect. 1 (9).

<sup>22</sup> Sect. 1 (1).

<sup>23</sup> Sect. 2. See Cherry, etc., 241.

<sup>24</sup> Sect. 1 (2).

<sup>25</sup> Sect. 1 (4).

<sup>30</sup> Sect. 1 (15).

his consent, be sold with the holding and, if so, the landlord was remunerated with a portion of the purchase money.<sup>31</sup> A tenant who sold his holding was not entitled to receive compensation for improvements or disturbance and conversely a tenant electing to receive compensation was not permitted to sell his holding.<sup>32</sup> An Ulster tenant might sell according to Custom or under the act.<sup>33</sup> This act like that of 1870 was reluctant to interfere with well-established usage.

The outstanding achievement of the Act of 1881 was the creation of what might be termed a "statutory tenure" whereby an attempt was made to secure for every agricultural tenant in Ireland the coveted security of tenure. Henceforth the government would stand between the landlord and tenant for the purpose of obtaining for the tenant both a fair rent and fixity of tenure. Briefly stated the tenant, providing he complied with certain "statutory conditions," was enabled to enjoy the quiet possession of his holding at a fair rent for a "statutory period" of fifteen years. The statutory conditions were as follows: that the tenant duly pay his rent; that he does not commit persistent waste; that he does not sublet or subdivide the holding or erect buildings without the consent of the landlord; that he does not cause the holding to vest in an assignee in bankruptcy; that he permit the landlord to enter the holding to cut timber, mine, quarry, hunt game, etc.; that he does not, without permission, open any house for the sale of intoxicating liquors.<sup>34</sup> If the tenant did not violate any of these conditions, he could not be compelled to pay any higher rent than that settled at the commencement of his fifteen-year statutory term.<sup>35</sup> Nor could the tenant be ousted from the holding save for a breach of one of the statutory conditions.<sup>36</sup> Finally, a tenant compelled to quit his holding in consequence of a breach of condition lost his right to compensation for

<sup>31</sup> Sect. 1 (8).

<sup>32</sup> Sect. 1 (11).

<sup>33</sup> Sect. 1 (12).

<sup>34</sup> Sect. 5 (1-6).

<sup>35</sup> Sect. 5.

<sup>36</sup> *ibid.*

disturbance,<sup>37</sup> but Ulster tenants were entitled to benefit of Custom notwithstanding.<sup>38</sup>

A statutory term might be created in any one of five different ways:<sup>39</sup>

If a tenant acceded to an increase of rent demanded by the landlord, his tenure was thereupon "fixed" at that annual rental for a period of fifteen years, subject, of course, to the statutory conditions.<sup>40</sup> But what transpired in the case of a tenant who refusing to pay an increased rent was noticed to quit? The act provided two remedies. In the first place he might claim compensation for disturbance, provided he did not choose to sell his interest.<sup>41</sup> The Act of 1881 provided a more liberal scale of compensation for disturbance for the tenant than did the Act of 1870.<sup>42</sup> The compensation was increased for all rentals over £10 and, in addition, the old maximum of £250 was abolished.<sup>43</sup> It was realized that the tenant normally would prefer to sell his interest rather than claim compensation, and in order to protect him it was further provided that the tenant might sell his tenancy, even though noticed by the landlord to quit, at any time six months prior to the execution of the action.<sup>44</sup> The Act of 1881 like its predecessor guaranteed the tenant additional compensation were he forced to surrender his tenancy.<sup>45</sup> It should be recognized, however, that the great majority of tenants had no desire to part with their holdings, regardless of the com-

<sup>37</sup> Sect. 13 (6).

<sup>38</sup> Sect. 20 (4).

<sup>39</sup> 1—By an agreement for an increased rent, in the case of either a present or a future tenancy (Sect. 4 (1)); 2—By the fixing of a judicial rent by the court in the case of a present tenancy (Sect. 8 (1)); 3—By an agreement between the parties as to a judicial rent filed in court (Sect. 8 (6)); 4—By reference to arbitration to fix a judicial rent (Sect. 40); 5—By agreement for the reinstatement of a tenant from whom possession has been taken (Sect. 20 (2)). See Cherry, etc., 250 note a.

<sup>40</sup> Sect. 4 (1).

<sup>42</sup> Sect. 6.

<sup>41</sup> Sect. 4 (3).

<sup>43</sup> Compare Act of 1870, Sect. 3, and the Act of 1881, Sect. 6. See Montgomery, 163-4.

<sup>44</sup> Sect. 13 (1).

<sup>45</sup> Sect. 7.

pensation. Indeed few chose to claim under these provisions, for instead of being forced as under the Act of 1870 to claim compensation, the tenant was granted the alternative right of applying to a court to have a fair rent fixed.<sup>46</sup>

In the second place the tenant was enabled to apply to the court to have a fair rent fixed for the holding. This option was not limited to tenants confronted by an increase of rent; but the tenant of any present tenancy, or the landlord and tenant jointly, or even the landlord who had failed to come to an agreement with his tenant, might make application.<sup>47</sup> In any case, once the judicial rent had been fixed by the court, the tenancy became one of fifteen years' duration.<sup>48</sup> During that period the rent could not be altered except by parliamentary legislation. The court, for the protection of the tenant, was given power to postpone or suspend all ejectment proceedings against him while his application was pending.<sup>49</sup> Under the foregoing provisions the great majority of the Irish occupiers became "statutory tenants."

A third method of securing statutory tenure was utilized to some extent. A landlord and tenant might come together and sign an agreement as to the fair rent of the holding. Upon the filing of such an agreement with the court, the tenant was enabled to hold as a statutory tenant for a period of fifteen years.<sup>50</sup> Likewise provision was made for the determination of a fair rent by a court of arbitration.<sup>51</sup> Neither of the foregoing methods was employed as much as the authors of the bill desired. Finally it might be mentioned that the Act of 1881 like its predecessor contained clauses encouraging the granting of long leases; and in addition creating a type of tenancy known as a "fixed tenancy"—neither of which was invoked to any extent.<sup>52</sup>

<sup>46</sup> See Cherry, etc., 259, note a.

<sup>47</sup> Sect. 8.

<sup>49</sup> Sect. 13 (3).

<sup>48</sup> Sect. 8 (3).

<sup>50</sup> Sect. 8 (6).

<sup>51</sup> Sect. 40. Similar to Sect. 25, Act of 1870.

<sup>52</sup> Sects. 10, 11, 12.

The courts were vested with large equitable powers which enabled them on the hearing of any application of landlord or tenant to refuse any application if either party was unreasonable.<sup>53</sup> The court was also enabled to grant applications subject to conditions. It could set aside, on the application of any tenant, any lease, established since 1870, which was unjust and could place him upon the same footing as an ordinary tenant.

The Act of 1881 contained a small measure of land purchase. The Act of 1870 had authorized the board of works to advance up to two-thirds of the purchase money of the holding to the tenant, but only 877 sales had been made. Under the Act of 1881 the land commission was empowered to advance up to three-fourths of the purchase money.<sup>54</sup> Such advances were to be repaid in annuities of 5 per cent so that in thirty-five years both the principal and the interest charges would be cleared.<sup>55</sup> Subdividing and subletting were prohibited;<sup>56</sup> but the purchasing tenants were protected against encumbered or defective titles.<sup>57</sup> The land commission was further empowered to purchase whole estates, and to resell them to the tenants in small lots, providing that in each instance three-fourths of the tenants, paying not less than three-fourths of the total rental, agreed to assume the obligations of ownership.<sup>58</sup> Here, as before, the advances were made subject to a 5 per cent annuity which was calculated at  $3\frac{1}{2}$  per cent interest and  $1\frac{1}{2}$  per cent sinking fund payment. The purchase provisions of the Act of 1881 were no more successful than those of the Act of 1870. Only 731 tenants purchased their holdings.<sup>59</sup>

The Act of 1881 contained provisions enabling the land

<sup>53</sup> Sect. 9.

<sup>56</sup> Sect. 30 (1a).

<sup>54</sup> Sect. 24 (1).

<sup>57</sup> Sect. 24 (3).

<sup>55</sup> Sect. 28.

<sup>58</sup> Sect. 26.

<sup>59</sup> The total advances amounted to £240,801. The land commission purchased 7 estates from the land judges court and made advances to 405 tenants thereon. Bailey, 24.



commission to advance money to individuals and companies for the purpose of undertaking agricultural improvements and reclamation. Advances up to £200,000 were voted for the purpose of assisting emigration. This last was resisted by the Irish representatives with great vigor.<sup>60</sup>

### *The Bill in Parliament*

In introducing the land bill, Gladstone urged its adoption on grounds which had oft been repeated. He dwelt upon the land scarcity which then, as before, prevented the normal operation of economic law in Ireland. He then pointed out the inherent defects in the Act of 1870 and showed that the tenants were not, as had been hoped, given sufficient protection. And lastly, while vindicating the Irish landlords as a body, he excoriated a small group within that class which, in defiance of equity, continued to exact unjust rents and enforce them by cruel evictions. He defended the establishment of a rent-fixing court on the ground that it was in the deepest interest of the social order. The only alternative was to resort to the single ownership of the landlord, which would be to outrage custom and to sacrifice the interest of the tenant.<sup>61</sup>

The bill had an interesting course in Parliament. The country was shocked at the outset by the resignation of the Duke of Argyll, the staunch old Whig, who had been associated with Gladstone for thirty years. The old school of Liberals was opposed to tampering with the free play of economic laws, and Argyll felt strongly that Gladstone's proposals tended to destroy ownership altogether. Government regulation could not fail to be injurious to the natural growth of agriculture. Argyll approved of the creation of the peasant proprietors, but the rent-fixing power of the court was too strong a dose for him to swallow.

The progress of the bill in the House was interminably

<sup>60</sup> *Annual Register*, 1881, 87.

<sup>61</sup> *ibid.*, 83-5.

slow. Though the second reading was carried by a vote of 352 to 176 on May 8, after the Easter recess over eight hundred amendments were listed. By Whitsuntide, June 3, only four lines had been agreed to. Although all the morning sittings excepting Wednesdays had been given up to the bill, it became necessary to devote all the time of the House to the measure: The bill was finally read on August 3 a third time, only to encounter a stiff opposition in the Upper House, which prevented its becoming law until the 22nd.<sup>62</sup>

In the House of Commons the Conservatives voted for the second reading largely because they were well aware of the necessity of remedial legislation, and because their supporters in the English counties felt keenly on the subject of agricultural relief. Gibson, while accepting the bill, argued that it was neither direct nor intelligible and that it would lead to universal litigation. He demanded finally that the Irish landlords should be compensated, or at any event privileged to sell their estates to the government at a fair price. In committee the Tories fought for better terms for the landlords, but without success. Men of all parties lauded the purchase clauses, but their number was insufficient to secure anything beyond the small provision in the bill. Parnell as usual played a political game, refusing to support the bill on grounds of inadequacy, but voting for it whenever it was threatened. Both Gladstone and Bright were exasperated by his tactics. The Nationalists did not vote for the bill on the second or third readings, but supported the government on numerous occasions when amendments hostile to the tenants' interest seemed likely to be carried.

The real struggle took place in the House of Lords, where the true representatives of landlordism put up a stout resistance. Though the main body of the act underwent no substantial change, the principles which it embodied had to run the gauntlet of a withering fire from Tories like Salisbury,

<sup>62</sup> *Annual Register*, 1881, 89.

Lansdowne and Cairnes. Salisbury, speaking before a sympathetic audience, declared that the bill went much further than merely guaranteeing the tenant protection for his improvements; in fact it far exceeded the protection afforded by the Ulster Custom which the tenants of Ireland had looked upon as the most favorable form of tenure. To a certain extent he and his were willing to make every concession to secure justice, but the present bill deprived the landlord of the most elemental rights of ownership, viz., the right to select his tenant and the right to fix his rent. If Parliament yielded to these proposals, henceforth every general election would come as an earthquake to the landlords. The duration of the act as a message of peace, would be short-lived; it would simply encourage the demands for greater concessions. As for the Irish landlords, they would, from this time, look upon the Imperial government and Parliament as their worst enemies.<sup>63</sup> Lord Lansdowne, a large landowner, declared that the Irish farmers would not look upon the bill as a final development of the Act of 1870, but as the low-water mark of a new goal which had for its purpose sheer confiscation of property.<sup>64</sup> Lord Cairnes prophesied the failure of the purchase clauses and agreed with Goschen that "the bill imports principles foreign to all Liberal legislation, and is in itself a sort of coercion bill—a bill for coercing landlords to fix a fair rent."<sup>65</sup> In creating statutory dual ownership the tenant was granted an interest in the soil which formerly was not his. This was acquired at the expense of the owner. Argyll also took his fling at the ministry, strongly objecting to the abandonment of good sound economic doctrine in favor of a system which would empower three men (land commissioners) to dictate the price of land over a country of five millions and which would enable every tenant in Ireland to sell that which ought not to be his by law, by custom, or by equity.

<sup>63</sup> *Annual Register*, 1881, 110, 111.

<sup>64</sup> *ibid.*, 111.

<sup>65</sup> *ibid.*

The Upper House agreed with Salisbury that, in view of the prevailing agitation and the state of anarchy in Ireland, it could not refuse the bill a second reading. The Lords were in earnest in believing that they could by amendments render the bill much less objectionable. In committee many amendments were carried by large majorities and the bill was returned to the Lower House with the sharp corners cut off. The government treated the numerous amendments with great respect, devoting more time to their consideration than the Lords had in framing them. The Lords felt, in the absence of a marked public opinion, that they were justified in upholding what they considered to be the rights of property. When they reassembled on August 12 with a remarkable display of numbers, they did their work in a spirit of "no surrender." They rejected the bill as the Commons returned it. This crisis affords a nice study of parliamentary tactics, but suffice it to say here that the Lords finally agreed to a compromise in which they won two points: the landlord was given access to the land court on much the same ground as the tenant and, secondly, all danger of fixing the rent in such a way as to diminish it because of high tenant-right prices was removed.<sup>66</sup>

The parliamentary session of 1881 was one of the most remarkable on record. The House of Commons sat for 154 days, for a total of 1400 hours, some 240 of which were after midnight. Never before had the House sat so many hours after midnight, and only once since the great Reform Bill (in 1847) had this total of hours been exceeded. The debates on the Coercion Bill took up 22 sittings and those on the Land Bill 58. Of fifteen thousand speeches over six thousand were delivered by Irish members. The speaker and the chairman of committees interposed on points of order nearly two thousand times during the session.<sup>67</sup> Parnell, with his minority of 24, dominated the House. But "after all,"

<sup>66</sup> *Annual Register*, 1881, 116-22.

<sup>67</sup> Morley, Vol. III, 56, 57.

as Morley wrote, "the suspension of Habeas Corpus is a thing that men may well think it worth while to fight about, and a revolution in a country's land system might be expected to take up a good deal of time."<sup>68</sup>

<sup>68</sup> *idem*, 57.



## CHAPTER VII

### THE PASSING OF REVOLT 1882-1885

#### *Strife*

X **W**HILE the land bill was being debated in Parliament during the summer of 1881, Forster was having a hard time of it in Ireland. Contrary to his expectations neither the presence of coercion nor the promise of land reform had much effect in staying the agitation. For a few weeks following the passage of the coercion acts there had been a lull, but it proved to be the calm before the storm. The Irish were awaiting to see the color of the coercion laws. Forster, however, had decided to use his extraordinary powers only under necessity; a policy which he termed "firmness combined with gentleness." Few arrests were made. The agitators regarded this as a sign of weakness and began to crawl out of their shells. "One powerful feature of the situation was the fact that the league meetings, whenever they were held, seemed to be followed by a track of crime." The speakers everywhere condemned coercion and held the Queen's authority up to open contempt. Despite the fact that Davitt, Dillon and other leaders were arrested for their utterances, the revolution showed no sign of collapse. Disorderly mobs gathered upon every pretext and the troops guarding process-servers were frequently stoned. Forster was disappointed with his police, who after boasting of their knowledge of the "village ruffians," seemed reluctant to arrest any of them. The conduct of the landlords, too, was irritating; for those men scenting great loss in the terms of

the land bill before Parliament were evicting tenants at every opportunity.<sup>1</sup>

In August the Land Act was passed. Shortly after a Parnell adherent was defeated in Tyrone, and Gladstone, greatly encouraged, began to contemplate a general amnesty.<sup>2</sup> Whatever hope of peace had been aroused, however, was soon blasted by the action of Parnell. The Irish leader was placed in a dilemma by the passage of the Land Act; he dared not praise it for fear of antagonizing his American supporters, and at the same time he could not reject it, knowing full well that the tenants would not submit to such a sacrifice. Parnell hit upon the happy idea of "testing" the act. Certain tenants on selected estates were directed to make application to have judicial rents fixed. In this manner "the working of the system could be tried, . . . and the manifest defects of the act could be demonstrated so as to emphasize the need of an immediate and amending measure before all the tenants should be tied down to the terms of the fifteen years' contract."<sup>3</sup> This proposal to administer the Land Act was promptly accepted by the Land League Convention on September 14. An explanatory telegram was sent to the American Land League. "The Convention has just closed after three days session. Resolutions were adopted for national self-government, the unconditional liberation of the land for the people, tenants not to use rent-fixing clauses of the Land Act, and follow old Land League lines and rely on old methods to reach justice. The executive of the league is empowered to select test cases, in order that tenants in the surrounding districts may realize, by the result of the cases decided, the hollowness of the act."<sup>4</sup>

Shortly after the passage of the act Gladstone diagnosed

<sup>1</sup> See *Annual Register*, 1881, 201-15.

<sup>2</sup> R. B. O'Brien, Vol. I, 304-5, Gladstone to Forster, September 8; Reid, Vol. II, 335-7, Forster to Gladstone, September 11.

<sup>3</sup> Davitt, 331-2.

<sup>4</sup> R. B. O'Brien, Vol. I, 306, September 11.

the situation. "We have before us in administration a problem not less delicate and arduous than the problem of legislation with which we have had lately to deal in Parliament. Of the leaders, the officials, the skeleton of the Land League, I have no hope whatever."<sup>5</sup> He hoped by patient administration to draw the people gradually from their leaders. When the action of the Land League Convention became known, Forster allowed himself to become almost hysterical and henceforth his behavior resembled that of an alarmist rather than that of a man of sound judgment. He hastily advised Gladstone to denounce Parnell's attitude publicly and to arrest all the leaders of the league. "I have just received private information that the Land League has received a large remittance from America, and is therefore much increasing its activity. This will enable landlords and leaguers to reiterate their declaration that Parnell really governs the country—a statement not easy to bear, because I feel just now it is too true!"<sup>6</sup>

On October 8, speaking at Leeds, Gladstone, acting on Forster's advice, publicly warned Parnell. He denounced him for arousing discontent and covetous desires for other men's property; for pursuing a policy of hatred of England and everything English; for refusing to repudiate the "assassination literature" brought in from America; for preaching a gospel of plunder by which the landlords should receive a bare rental of £3,000,000 for land producing an income of £17,000,000 and finally for urging the people to test, not to use, the Land Act.<sup>7</sup> "It is no small matter if he desires, gentlemen, to arrest the operation of the act—to stand as Moses stood, between the living and the dead, but to stand there not as Moses stood, to arrest, but to spread the plague."<sup>8</sup> The prime minister spoke regretfully of the slug-

<sup>5</sup> Morley, Vol. III, 59, September 5.

<sup>6</sup> Reid, Vol. II, 347, Forster to Gladstone, October 4.

<sup>7</sup> *Annual Register*, 1881, 187-8.

<sup>8</sup> *ibid.*, 188.

gishness of loyal Irishmen, especially among the wealthy, who seemed incapable, if not unwilling, to do anything to help themselves. He then announced the future policy of the government. "In the great impending crisis we depend on the good sense of the people, and we are determined that no force, and no fear of force, and no fear of ruin through force, shall . . . prevent the Irish people from having the full and free benefit of the Land Act. And if, when we have a short further experience, it should then appear that there is still to be fought the final conflict in Ireland between law on the one side and sheer lawlessness on the other; if the law purged from defect and from any taint of injustice, is still to be refused, and the first condition of political society to remain unfulfilled, then I say, gentlemen, without hesitation, that the resources of civilization are not yet exhausted."<sup>9</sup>

Two days later at Wexford, Parnell replied in a speech that was sneering and defiant. He compared the prime minister's threats to the whistle of the small schoolboy on his way through a churchyard at night to keep up his courage. He told his audience that Gladstone was "prepared to carry fire and sword into your homesteads unless you humbly abase yourselves before him and the landlords of the country."<sup>10</sup> There was only one course for the exasperated government to take. On Wednesday, October 12, after a five-hour discussion in Cabinet, Forster wired to Dublin: "Proceed."<sup>11</sup> In the evening at the Guildhall banquet, Gladstone made a dramatic announcement: "Within these moments, I have been informed that towards the vindication of law and order, of the rights of property, of the freedom of the land, of the first elements of political life and civilization, the first step has been taken in the arrest of the man who unhappily from motives which I do not challenge, which I cannot examine and with which I have nothing to do, has

<sup>9</sup> *ibid.*

<sup>11</sup> Reid, Vol. II, 354.

<sup>10</sup> O'Hara, 184-5.

made himself beyond all others prominent in the attempt to destroy the authority of the law and to substitute what would end in being nothing more or less than an anarchial oppression exercised upon the people of Ireland.”<sup>12</sup> The following day Parnell began his internment in Kilmainham Gaol where he was soon joined by other league leaders.

The league's reply to the government coup was to issue a “no-rent manifesto” on October 18. “The executive of the National Land League, forced to abandon the policy of testing the Land Act, feels bound to advise the tenant farmers of Ireland from this time forth to pay no rents under any circumstances to their landlords until the government relinquishes the existing system of terrorism and restores the constitutional rights of the people. Do not be daunted by the removal of your leaders.”<sup>13</sup> This document was inspired by Egan and Ford and was signed by all the league leaders. Dillon and several others, however, did not believe it would succeed. “A strike against rent cannot be carried out without the help of the priests and the priests cannot support so barefaced a repudiation of debts as this. Rome would not let them.”<sup>14</sup> Parnell appears to have shared this view, but acquiesced in the will of the majority.<sup>15</sup> On October 20, Forster issued a proclamation dissolving the Land League. “We hereby warn all persons that the said association styling itself the National Land League, or by what other name it may be called or known, is an unlawful and criminal association, and that all meetings and assemblies to carry out or promote its designs or purposes are alike unlawful and criminal, and will be prevented, and, if necessary, dispersed by force.”<sup>16</sup>

The issue was now joined. For six months the administration and the league were locked in a desperate struggle for supremacy. At the start the government had the ad-

<sup>12</sup> Morley, Vol. III, 61-2.

<sup>15</sup> *idem*, 320.

<sup>13</sup> Davitt, 335-6, in full.

<sup>16</sup> Davitt, 338-9, in full.

<sup>14</sup> R. B. O'Brien, Vol. I, 319-20.



vantage. The imprisonment of the league leaders and the prohibition of public meetings stunned the resistance. The attempt of the league to administer the Land Act failed totally, owing, according to Davitt, to the cupidity of tenants in Ulster.<sup>17</sup> One suspects that the temptation was too great for any class of tenants to resist. A more serious blow was the condemnation of the "no-rent manifesto" by Dr. Croke, Archbishop of Cashel, and the ardent supporter of the league among the higher clergy. "A universal support of the 'no-rent manifesto' was thus rendered impossible."<sup>18</sup>

As a last resort the Irish leaders called into the field the Ladies Land League. This body had been founded by Davitt early in 1881 to meet such an emergency. Despite the fact that Miss Anna Parnell was the president of the organization, Parnell and others regarded this step as a dangerous experiment.<sup>19</sup> But Davitt always insisted that the sister organization served a good purpose. "Her purpose and policy," he wrote of Miss Parnell, "was to render Ireland ungovernable by coercion, and this she and her lieutenants succeeded completely in doing."<sup>20</sup> It is true that the Ladies League carried on boycotting and other activities, but it was unable to hold in check the rampant agrarian crime which characterized this period. "It was neither the business nor the desire of the Ladies League," wrote Davitt, "to inquire too closely into the motives or methods of those who, driven from open combination and public meetings, resorted to such expedients as were available in carrying on the fighting policy of the movement."<sup>21</sup> Egan from Paris kept the ladies well supplied with money which poured in from the United States. Forster was hard put to it for he had no desire to incarcerate large numbers of hysterical women. All he could

<sup>17</sup> *idem*, 332.

<sup>18</sup> M. Macdonagh, *William O'Brien*, 57.

<sup>19</sup> Davitt, 299, 300.

<sup>21</sup> *idem*.

<sup>20</sup> *idem*, 340.

do was to exhort the police and pour more troops into Ireland.<sup>22</sup>

### *A Crisis*

By the end of March 1882 the government realized that it was waging a losing fight. There were in Ireland 25,000 regular troops, 20,000 constabulary and a host of spies, yet disorder and crime were increasing. During the six months preceding the proclamation of the league there had been 1,147 agrarian outrages, including 8 murders; while during the six months following there were 1,287 outrages and 14 murders.<sup>23</sup> In addition there were in prison 872 suspects and 211 charged with participating in nocturnal attacks.<sup>24</sup> The government had made every effort to break down the revolution. As a last resort two appeals were made, one to Rome and a second to the Irish people. In December of 1881, Gladstone, through Cardinal Newman, tried to prevail upon the Holy See to have the priests restrained from taking part in the agitation. The cardinal, however, explained that the bishops, if they saw fit, might instruct their priests as to the use of intemperate and incendiary language, but it was hardly a matter for the introduction of the Supreme Authority.<sup>25</sup> The appeal was not successful. Late in 1882 the Irish clergy were instructed to admonish the Ladies League and to discourage the participation of the priests, but there was no real force behind the resolutions and the people were not alarmed. The appeal to the Irish people was likewise barren of results. During March 1882, Forster journeyed courageously through the disturbed counties of Clare, Limerick and Galway, addressing large gatherings.<sup>26</sup> But "it was no use of Mr. Forster now to go among the disturbed districts and make sensible speeches; the mischief had been done and was not to be mended by any effort of his."<sup>27</sup>

<sup>22</sup> Reid, Vol. II, 366-79.

<sup>23</sup> *idem*, 416.

<sup>24</sup> Davitt, 344.

<sup>25</sup> Morley, Vol. III, 62-3.

<sup>26</sup> Reid, Vol. II, 390-406.

<sup>27</sup> *Annual Register*, 1882, 184-5.

In England the government began to meet with irritation and criticism. A select committee was appointed by the House of Lords to investigate the workings of the Land Act, despite a motion in the Lower House to the effect that such an inquiry would be detrimental to the operation of the act and the interest of good government. The ministry was further annoyed by an official publication of the Irish land commission which not only vigorously advocated the establishment of a peasant proprietary, but which spoke of the Land League as "the most undespised, the most powerful and, in its effects, we believe the most enduring organization of our time." Allusions were made to the cause for which, "Parnell, Dillon, and Davitt labored and suffered." The appearance of such a communique at a time when the Land League was under condemnation and its leaders in prison, greatly embarrassed the government. The authorship of the tract was traced to George Fottrell, secretary of the commission. The pamphlet was withdrawn and its author requested to resign.<sup>28</sup>

English opinion was convinced that the government was muddling badly and a clamor against Forster in particular arose. The Irish landlords hated him for his lack of severity, while in England he was assailed for having suspended constitutional government. Within the Liberal party, a group led by Chamberlain was openly antagonistic to the régime of coercion. John Morley, editor of the *Pall Mall Gazette*, demanded that Forster resign. The Tories, enjoying the discomfiture of the government, were seized with a fit of virtue and began to cry out against coercion. "The present measures of coercion," said Gorst on March 28, "have entirely failed to restore order in Ireland . . . and therefore there must be some new departure on the part of the government!"<sup>29</sup> Sir John Hay, Conservative, gave notice of a motion "that the detention of large numbers of Her Majesty's subjects in solitary confinement, without cause assigned and

<sup>28</sup> *ibid.*, 35-6.

<sup>29</sup> R. B. O'Brien, Vol. I, 333.

without trial, is repugnant to the spirit of the constitution, and that to enable them to be brought to jury trials, should, for a limited time in Ireland, and in regard to crimes of a well defined character, be replaced by some form of trial less liable to abuse."<sup>30</sup>

Even the *Times* felt constrained to indulge in a little irony. "The Irishman has played his cards well, and is making a golden harvest. He has a legion of landlords, dowagers and encumbrancers of all sorts out of the field, driving them into workhouses. He has baffled the greatest of legislatures and outflanked the largest of British armies in getting what he thinks his due. Had all this wonderful advance been made at the cost of some other country, England would have been the first to offer chaplets, testimonials and ovations to the band of patriots who had achieved it. As the sufferers in a national sense are chiefly of English extraction, we cannot help a little soreness. Yet, reason compels us to admit that the Irish have dared and done as they never did before."<sup>31</sup>

*Forster—Gladstone—Parnell*

In this crisis Gladstone made a decision. He was fully resolved that the coercion act expiring on October 1 should not be renewed. As early as March 24 he acquainted Forster with this decision. "A renewal of so odious a power as that which we now hold is impossible, and that whatever may be needed by way of supplement to the ordinary law must be found in other forms."<sup>32</sup> Forster, however, could not see the forest for the trees. He wished not only to retain the act, but in addition to abolish trial by jury in certain instances.<sup>33</sup>

While Forster and Gladstone were endeavoring to settle their differences, Parnell began the thread of negotiation that was to result in the Kilmainham treaty. The Irish leader

<sup>30</sup> R. B. O'Brien, Vol. I, 333.

<sup>32</sup> Reid, Vol. II, 406.

<sup>31</sup> Davitt, 342, March 25.

<sup>33</sup> *idem*, 415-20.

viewed with alarm the trend towards lawlessness and anarchy. The country was drifting from his hands into the control of irresponsible men and women whose wild operations were sapping his authority and beckoning disaster to the national movement. This state of affairs was inimical to his interest.<sup>34</sup> It was essential, therefore, to strike a *modus vivendi* with Gladstone; if possible to leave prison on terms which would be satisfactory to Irish interests.

Parnell set upon the arrears question as a basis of negotiation. He adopted the following view: that the agitation was due to the inability of one hundred thousand small and poor tenants to pay their rents. Faced with eviction they could protect themselves only by forcing larger tenants to join them in refusing to pay rent. If in some manner the arrears could be cancelled, it "would have an immediate effect in producing tranquillity and restoring peace in the country."<sup>35</sup> Through his emissary, Captain O'Shea, Parnell learned that Gladstone agreed, and thus the door was open to further negotiation. Chamberlain replied in a similar tone, but Forster was reluctant to encourage an exchange of views.<sup>36</sup> On April 25, Parnell took a further step in outlining definite proposals in a letter to his lieutenant, Justin McCarthy. He hoped to obtain three concessions in addition to his release from prison: a settlement of the arrears question; an amendment to the Land Act admitting leaseholders to its privileges; and an amendment of the purchase clauses of that act. "If the Government were to announce their intention of proposing a satisfactory settlement of the arrears question, we on our part would make it known that the no-rent manifesto was withdrawn and we should advise the tenants to settle with their landlords. We should also then be in a much better position than we were ever before to make our exertions effective to

<sup>34</sup> R. B. O'Brien, Vol. I, 335.

<sup>35</sup> *idem*, 336-7.

<sup>36</sup> *idem*, 337-8, Gladstone to O'Shea, April 15, Chamberlain to O'Shea, April 17; Reid, Vol. II, 425, Forster to Gladstone, April 18.



put a stop to the outrages which are unhappily so prevalent. If the result of the arrears settlement and the further ameliorative measures suggested above were the material diminution of outrage, . . . and the prospect of the return of the country, after a time, to something like normal condition, we should hope that the government should allow the Coercion Act to lapse, and govern the country by the same law as in England."<sup>37</sup> These propositions were also put in the possession of O'Shea.

On learning from Chamberlain the terms of the Parnell proposal, the ministry decided that though they could enter into no agreement and could give no pledges, yet "they could act on their own responsibility in the light of the knowledge they had gained of Mr. Parnell's views."<sup>38</sup> With this declaration behind them they permitted Chamberlain to negotiate with O'Shea in regard to both arrears and the release of Parnell. It was agreed, however, "that neither he nor other leaders could be released unless they gave a public assurance of their resolves, so far as lay in their power, to put an end to the intimidation, including boycotting."<sup>39</sup> Forster was again approached, but was adamant. Gladstone and his chief secretary were at the parting of the ways. "On the whole," wrote Gladstone, "Parnell's letter is, I think, the most extraordinary I ever read." The willingness of Parnell to cooperate he regarded as "*a hors d'œuvre* which we had no right to expect. . . ."<sup>40</sup>

There was a meeting of the Cabinet on Monday, May 1. Forster agreed to the release of Parnell, but on the condition that a new crimes bill be adopted. His proposal was rejected. The following day Gladstone read a memorandum advising the immediate release of Parnell and others not associated with actual crime, and permitting coercion to lapse.<sup>41</sup> The

<sup>37</sup> R. B. O'Brien, Vol. I, 340-2.

<sup>39</sup> Reid, Vol. II, 430.

<sup>38</sup> Morley, Vol. III, 64.

<sup>40</sup> *idem*, 440.

<sup>41</sup> Morley, Vol. III, 65. Quoted in full.

Cabinet accepted the memorandum and Mr. Forster resigned. To the Queen the prime minister wrote: "In his judgment there had been two, and only two, vital powers of commanding efficiency in Ireland, the Land Act and the Land League; they had been locked in a combat of life and death; and the cardinal question was which of the two would win. From the serious effort to amend the Land Act by the Arrears bill of the nationalists, from the speeches made in support of it, and from information voluntarily tendered to the government as to the views of the leaders of the league, the cabinet believed that those who governed the land league were now conscious of having been defeated by the Land Act on the main question, that of paying rent."<sup>42</sup>

"Mr. Gladstone was always impatient of any reference to 'reciprocal assurances' or 'tacit understanding' in respect of the dealings with the prisoner of Kilmainham. Still," wrote Morley, "the nature of the proceedings was plain enough."<sup>43</sup>

### *The Fulfilment of the Treaty*

A few days before Forster's resignation, Earl Spencer was appointed lord lieutenant of Ireland, with Cabinet rank. Forster's biographer believed that this event was not a first step in the chief secretary's supercession, but that it was done upon Forster's recommendation; the latter deeming it essential to have a responsible minister in Dublin as well as in London.<sup>44</sup> The fact that neither Cavendish, Trevelyan, nor Campbell-Bannerman, his successors in office, held Cabinet rank may be of significance. Earl Spencer, the youthful viceroy, was the real ruler of the country until the Conservatives resumed office in 1885.

On May 6 Lord Spencer formally took office, and on the evening of the same day Sir Frederick Cavendish, the new chief secretary, and Burke, the under secretary, were mur-

<sup>42</sup> Morley, Vol. III, 66.

<sup>44</sup> Reid, Vol. II, 423-5.

<sup>43</sup> *idem*, 64.

dered in Phoenix Park. The assassinations were perpetrated by members of the "Invincibles," a terrorist society whose avowed aim was to make away with those whom they judged to be oppressors of Ireland. Forster had been marked for destruction, but the plans had miscarried. It had not been intended to murder Cavendish, for he was unknown to the conspirators. Thomas Burke had been under secretary since 1869 and wielded considerable influence in the administration by virtue of long service. Because he was an Irishman and a Catholic, the fanatics branded him "traitor," stabbed him to death; and Cavendish who happened to be with him, paid the same penalty.<sup>45</sup>

The assassinations boded ill for Ireland. "When the House of Commons met on May 8, Parnell was in his place looking jaded, careworn, anxious and oppressed. He had won a great victory. He had beaten the Irish executive. He had drawn the prime minister on his side. He had obtained the promise of more concessions, and there was every prospect that the policy of coercion would be abandoned. His success was complete, and now all was jeopardized by a gang of criminal lunatics."<sup>46</sup> On May 11 the government introduced the very measures which a fortnight before had seemed so obnoxious to the Cabinet. Large majorities voted the substitution of trial by judges for trial by jury in certain cases, and the power to summon witnesses and carry on inquiries in secret even where no person charged with the crime was in custody. Parnell fought the measure, but he was sick at heart. "We have been contending against the right honorable gentleman [Gladstone] for two years," he said. "We have found him to be a great man and a strong man. I think it no shame to admit that we should not wish to be fought again in the same way by anybody in the future. I regret that the event in Phoenix Park has prevented him continuing his course of conciliation that we have expected from him. I regret that owing to the exigencies of

<sup>45</sup> Reid, Vol. II, 428-30.

<sup>46</sup> R. B. O'Brien, Vol. I, 328.

his party, of his position in the country, he has felt himself compelled to turn from that course of conciliation and concession into the horrible paths of coercion."<sup>47</sup>

The government, however, kept one of its pledges. During the Kilmainham negotiations, Parnell aided by Healy had formulated a scheme of land reform along the lines indicated in the McCarthy letter. As a political gesture, calculated to impress the ministry with the reasonableness of Irish demands, John Redmond late in April introduced a bill embodying the Nationalist proposals. Chief among its provisions were clauses cancelling all arrears prior to 1881 and others supplementing the Act of 1881 with respect to extending its purchase provisions and admitting leaseholders to its benefits. Gladstone, while rejecting the proposal on the ground that it was inexpedient to interfere with the Land Act at such an early date, spoke of it "as a gleam of light on a horizon long dark."<sup>48</sup> His veiled approval of what was known to have been inspired at Kilmainham gave rise to the suspicion that he was in negotiation with the Parnellites.

That the arrears clause of the Land Act was insufficient, there was no doubt.<sup>49</sup> On condition that the rent of 1880 was paid, the land commission had been empowered to lend up to one year's rent or up to one-half of the antecedent arrears to delinquent tenants. But the loan was dependent upon the acquiescence of the landlord, who refused to act, since it was stipulated that he must assume the responsibility for the collection of a charge that was designated as prior to the rent. A letter from Forster to Gladstone in April 1882 reveals how completely the provision for arrears had broken down. "The dangers and difficulties of dealing with the question are great. . . . Nevertheless, I think . . . we must interfere. The evictions in Mayo and elsewhere are becoming very serious and many of the poor cottier tenants and many of those

<sup>47</sup> *idem*, 360.

<sup>49</sup> Sect. 59.

<sup>48</sup> *Annual Register*, 1882, 51, 52.

who are most rack rented, feel it useless to resort to the land court. The miserable helpless position of these poor men is the foundation of the agitation. I think it useless to reenact the old clauses."<sup>50</sup>

In view of the situation Gladstone on May 15 undertook to fulfil his pledge in regard to arrears. Accordingly it was provided<sup>51</sup> that the land commission, where a tenant had not paid his arrears through fear of losing his holding or being deprived of the means of cultivating it, might cancel as much as one-half of the arrears providing the amount did not exceed the rent of the year 1881. Upon the tenant advancing a corresponding sum, the landlord was compelled to accept payment and thus to forgo his right to evict on the ground of non-payment. This settlement would not, of course, prejudice the landlord's right to evict for sums due subsequent to the passage of the Act of 1881. The money was to be obtained from the Irish Church surplus, and all applications for the gift had to be made before the end of the year.<sup>52</sup> Gladstone in the House admitted that this type of legislation was exceptional and extraordinary; and that neither on economic nor constitutional grounds could he approve of the interference of the State in the settlement of debt by means of compulsion and gift. He defended this departure, however, on the ground that without it, "the working of the Land Act, however beneficial, must remain essentially incomplete."<sup>53</sup> It is estimated that no less than £2,000,000 of arrears were wiped out under the provisions of this act.<sup>54</sup>

Parnell pressed for further concessions, and in March 1883 brought in a bill to further supplement the legislation of 1881 in the interest of the tenant. His demands were moderate and on the whole wise, as subsequent legislation was to

<sup>50</sup> Reid, Vol. II, 425-8, Forster to Gladstone, April 18.

<sup>51</sup> For tenants of holdings under £30, the vast majority, who before November 1882 would pay their 1881 rents.

<sup>52</sup> 45 and 46 Vict. c. 47.

<sup>54</sup> *Annual Register*, 1882, 80.

<sup>53</sup> *Hansard*, Vol. 269, 1270, 1274.



prove. His proposal to confer the benefits of the Act of 1881 upon leaseholders and occupiers on town parks was later incorporated in the land law.<sup>55</sup> In connection with the purchase clauses the Irish leader desired changes whereby the tenants might be advanced the whole of the purchase money instead of three-fourths, and the period of repayment extended from thirty-five to fifty-two years. The law in regard to tenants' improvements, due to questionable judicial decisions, had partially broken down, causing alarm among the tenantry.<sup>56</sup> Parnell proposed the amendment of that portion of the Act of 1881. But Gladstone unfortunately refused to go beyond the letter of the Kilmainham agreement in respect to the land law. "Looking at the general interests of the Empire as a whole and looking especially at the interests of Ireland—looking at the sacrifices they had demanded and exacted from certain classes in Ireland—it would be a violation of their duty were they now to give encouragement to the demand for new sacrifices which they did not think, in the main, justice requires. . . ."<sup>57</sup> The measure was defeated by a vote of 250 to 63. The English radicals, and among them James Bryce, voted with the minority.

### *Slowing down the Agitation*

Parnell's position in the months following the Kilmainham Treaty was difficult. Pledged to aid in ridding Ireland of crime and disorder, he meant to keep his promise. Indeed for his own ends a period of calm was essential; the party organization, without which Home Rule could not be achieved, must be perfected. He felt that the Land League had accomplished all that agitation could do for Ireland, and that with the decline of economic distress and the passage of the Land Act its utility would be questionable. On the other hand in discarding the old fighting tactics there was the danger that the parlia-

<sup>55</sup> In 1887. See *infra*, 259.

<sup>57</sup> *Annual Register*, 1883, 67.

<sup>56</sup> See *infra*, 205.

mentary party would lose much support in Ireland and in America. Above all, it was necessary to retain the financial support of the American Irish in the impending struggle for Home Rule.

Whether it would be possible to retain the support of certain American groups in the face of the abandonment of revolutionary tactics was the question confronting Parnell. Much—possibly all—depended upon the man whom the people trusted, Michael Davitt. Recognizing that Davitt was the key man, Parnell, immediately after his release from Kilmainham, set out with the intention of forcing the hand of the tribune of the people. Since February 1881 Davitt had been interned in Portland Gaol and had lost touch with the events leading up to the treaty. Securing Davitt's freedom, Parnell and several of his lieutenants journeyed to Portland on May 6, a sinister day. Davitt was naturally amazed at the substance of Parnell's communication: "We are on the eve of something like Home Rule. Mr. Gladstone has thrown over coercion and Mr. Forster, and the government will legislate further on the land question. The Tory Party are going to advocate land purchase almost on the lines of the Land League program, and I see no reason why we should not obtain all we are looking for in the league movement. The no-rent manifesto has failed, and was withdrawn. A frightful condition of things prevailed in Ireland during the last six months, culminating in several brutal murders, moonlighting intrigue, and alarming violence generally."<sup>58</sup> As a first step Parnell told Davitt that the Ladies League must be dismantled. "They have expended an enormous amount of money. They told me in Dublin, after my release, that I ought to have remained in Kilmainham. I fear they have done much harm along with some good."<sup>59</sup> Davitt disagreed and nothing came of the preliminary conference. But later in the day came the Phoenix Park murders and doubtless Parnell's arguments were power-

<sup>58</sup> Davitt, 356.

<sup>59</sup> *idem*.

fully reinforced. Forthwith the Nationalists were plunged into another struggle against coercion; Parnell's time was fully occupied in London, and the differences of chief and tribune were left in abeyance. In June Davitt on his own responsibility departed for the United States where the Kilmainham treaty was raising havoc in the ranks of the American Land League.

As Davitt suspected, the solidarity of the Amercian Land League had been shaken. Since its formation in 1879 that body had grown tremendously in strength and in numbers, and its financial support had become the very staff of life for the central organization. But the *Irish World* faction under Ford had remained aloof. Only at the Chicago Convention in November 1881 was it represented; and then only under pressure of delegates from Ireland when the crisis was at its zenith. With Parnell and the other leaders in jail and with the suppression of the Irish Land League, the Ford group joined with the delegates from thirty-eight American States in pledging to raise £250,000 during the succeeding twelve months. Their enthusiasm, however, was momentary for the recalcitrants refused to take part in the Washington meeting in the April following, and soon after condemned the Kilmainham compromise. On the other hand the regular organization accepted it as a victory.

It was Davitt's purpose to reconcile the two groups. If this could be done, then he might hope through the force of American opinion to influence the policy of Parnell. His efforts were rewarded with success. At a conference held at the Astor House in New York both factions agreed to continue their contributions for the time being. It was resolved to invite Parnell and other Irish leaders to meet delegates of the conference to consider the founding of a great Pan-Celtic confederation, whose ends would be the settlement of the questions of land and self-government. Davitt had reason to be pleased with his work, since not only had he succeeded in

holding the transatlantic Irish together, but moreover he had committed them to continuing the struggle upon Land League lines. He was now in a position to approach Parnell with assurance for he was more than an individual; he was the spokesman of the most affluent Irish group.<sup>60</sup>

When Davitt returned to Ireland in September he learned that Parnell had not departed an iota from his decision to dispense with organized agitation. Indeed, the backbone of the league organization was rapidly disintegrating; Brennan was estranged; Egan, losing influence, had left Ireland; while Dillon, not so easily repulsed, was engaged in promoting an opposition to Parnell. Davitt wasted no time in placing the Astor House program before Parnell. He frankly demanded a reorganization of the Land League under an assumed name. Parnell, however, was adamant, refusing to meet delegates of the conference or to delegate men to represent him. Furthermore he declined to undertake a reorganization, although he intimated that he would not forbid others to do so upon their own responsibility. But he made it clear that he would not sanction a return to the turmoil of agitation and disorder. He insisted upon strictly constitutional activity, purged of Land League tactics and intimate association with radical American groups. Only with the greatest reluctance was he persuaded to advance the funds necessary to closing the affairs of the Ladies Land League. "They will get no more money from me, and let the league be dissolved at once."<sup>61</sup>

Before a month had elapsed, however, Parnell had a change of heart. He was angered with the severity of Lord Spencer's coercion policy and the recurrence of evictions on a large scale. Possibly the widespread dissatisfaction of the people with the abandonment of a fighting policy was of greater importance. At all events when he learned that a new organization would be formed whether he liked it or not, he sought to

<sup>60</sup> Davitt, 367.

<sup>61</sup> R. B. O'Brien, Vol. I, 364-5; Davitt, 368.



come to terms with Davitt, Dillon and Brennan. On September 12 a conference was held at Avondale and a compromise—dubbed the “Avondale Treaty” by Parnell—was reached. Davitt has summarized the result: “That he [Parnell] was to lay down the lines on the land question for the country, . . . on a strictly parliamentary basis, and on condition that I would not raise any rival land issue. . . . These were the terms and they were easily agreed to, because it was only on these conditions that the League movement could be revived with Mr. Parnell at its head. . . . The program would be sufficiently elastic to leave room for all views to obtain expression when once the country was rallied to action again. It was also agreed that the name of the revived organization should be ‘The Irish National League,’ which would be that of the suppressed Irish National Land League with the word ‘Land’ omitted, so as to avoid illegality.”<sup>62</sup>

The *Annual Register* somewhere takes notice “that the loyalty of Davitt to Parnell was most remarkable.” This is manifestly true, and it would not be an exaggeration to add that Davitt unlike many who have served the Irish cause was guided by a willingness at all times to sacrifice personal ambition and submerge purely personal views. His was patriotism of the finest mould. In this instance Davitt, holding in the hollow of his hand the Irish-American support, might have placed himself at the head of an anti-Parnellite movement; he might have joined forces with the *Irish World* and split the Irish asunder; or he might have refused to support any plank that did not include land nationalization, so dear to his heart. But he did none of these things. On September 18 he wrote to the American constituency: “The program which is to be submitted to the conference will, of course, be closely scanned on this side, both by friends and foes, and will no doubt be as eagerly waited for and as keenly criticized on yours. Mr. Parnell is to define the policy to be pursued on the land ques-

<sup>62</sup> Davitt, 368.



tion. That policy is, in his opinion, dictated by the circumstances under which we are compelled to act, and will be almost similar to the parliamentary policy pursued anterior to the suppression of the Land League. To work for the abolition of landlordism in any other way than the channels of reduced rent and the amendment of the purchase clauses of the Land Act is, in Mr. Parnell's opinion, now legally impossible, and he therefore contends that the course he proposes taking is determined by the exigencies of the situation, and is, therefore, the *sine qua non* of his participation in another national movement."<sup>63</sup>

On October 18, 1882, the Irish National League was founded. Parnell, of course, became its president. Patrick Egan, the treasurer of the old league, in turning over the balance to the new league, submitted a statement of the expenditures of the Land League. No less than £244,820 had passed through his hands. Of note was the expenditure of £50,000 for the relief of distress in 1879-1880; of £15,000 for the state trials of 1880-1881; and of £148,000 in support of the land war, caring for tenants, providing food and shelter, defense against ejectments and law costs. This report was a gallant testimonial of the loyalty of the Irish abroad to those who remained at home struggling, almost without hope, for better things.<sup>64</sup>

The constitution and program of the National League were drawn up by Parnell and Healy. Home Rule, the creation of county boards with extensive local powers, broader suffrage, legislation for the laborer and for the encouragement of industry and land reform were the important planks. Article II dealt with the land question in all its phases. Most of its parts have a familiar ring: improvement of the existing system of dual ownership by the admission of leaseholders and other deserving groups and by a fairer interpretation of the Healy clause, designed to prevent the imposition of rent upon the

<sup>63</sup> Davitt, 371-2.

<sup>64</sup> *idem*, 373, gives the report in full.

value added by tenants' improvements. The creation of a large class of peasant proprietors was emphasized; and laws enabling the State to advance to the tenants the whole purchase money and to extend the period of repayment through sixty-three years were demanded. A new feature was the demand for compulsory appropriation of all lands not in use and their resale or letting to small farmers and laborers.<sup>65</sup>

Parnell in his address to the convention announced the policy for the future. "I wish to affirm the opinion which I have expressed ever since I first stood upon an Irish platform, that until we obtain for the majority of the people of this country the right of making their own laws, we shall never be able and we can never hope to see the laws of Ireland in accordance with the wishes of the Irish people, or calculated, as they should, to bring about the permanent prosperity of our country. And I would always desire to impress upon my fellow countrymen that their first duty and their first object is to obtain for our country the right of making her own laws upon Irish soil."<sup>66</sup> Then turning to the land question, he said: "I wish to reaffirm the belief which I have expressed upon every platform which I have stood since the commencement of the land agitation—that no solution of the land question can be accepted as a final one which does not insure the occupying farmers the right of becoming owners by purchase of the holdings which they now occupy as tenants."<sup>67</sup> The principal planks of the new platform were Home Rule and peasant proprietorship.

"The outcome of the Conference of October 1882," wrote Davitt, "was the complete eclipse, by a purely parliamentary substitute, of what had been a semi-revolutionary organization. It was in a sense, the overthrow of a movement and the enthronement of a man, the replacing of nationalism by Parnellism, the investing of the fortune and guidance of the

<sup>65</sup> *idem*, 375-7. The constitution and program are given in full.

<sup>66</sup> R. B. O'Brien, Vol. I, 369-70.

<sup>67</sup> *idem*.

agitation, both for national self-government and land reform in a leader's nominal dictatorship." <sup>68</sup> None the less Davitt accepted Parnell's leadership, and Irish America followed in his wake. The fifth convention of the Land League met in Philadelphia in April 1883. There were present a thousand delegates representing almost as many branches. Thomas Brennan and Patrick Egan, the old Land League warriors, witnessed the dissolution of the American Land League and the founding of the Irish National League of America. Resolutions were adopted in favor of the program of the parent organization and in support of the leadership of Parnell. Though the Ford element was not represented, an attempt was made by extremists to have Parnell repudiated, but it failed utterly. During the next few years the *Irish World* chose to continue its isolated policy and pursued a tactless and ill-advised course. It abandoned all support of Parnell and adopted a Physical Force policy almost terroristic in its implications. <sup>69</sup>

The Irish following in America, with the exception of the Ford group, maintained its unity throughout the Home Rule struggle of the coming years. The second convention of the National League was held in Boston in August of 1884. Thomas Sexton and William Redmond represented the parent organization. At this convention Patrick Egan, versatile soldier of fortune, was elected president. The Land League had taken this man from Ireland to France and finally to the United States. He was soon to become the representative of his adopted country in Chile, where his revolutionary genius stood him in good stead. The Boston convention heartily endorsed Parnell's decision to push the Home Rule issue to the front and preparations were made to aid him financially. <sup>70</sup>

Thus it has been shown that Parnell, due to the loyalty of Michael Davitt, was able to keep faith with the terms of

<sup>68</sup> Davitt, 377-8.

<sup>70</sup> *idem*, 471-2.

<sup>69</sup> *idem*, 396.

the Kilmainham treaty without losing support in America. The years 1883 and 1884 were almost devoid of organized revolutionary activity in Ireland. The National League confined its energies to building up a powerful political organism. Parnell remained watchfully in the background, making few speeches outside Parliament. When his policies were threatened he spoke forcefully, but when the danger had passed he quietly receded from the foreground. In 1884 Davitt, ever restless, began to preach openly his socialistic doctrine of land nationalization. Parnell desired no dispute with the tribune, but found it necessary to make clear that that doctrine was not part of his program. In a speech at Drogheda, in April of that year, he spoke strongly in opposition to Davitt's theories with the result that the latter was unable to gain any support for them.<sup>71</sup> Parnell was successful, then, both in slowing down the agitation and in maintaining the unity of the Irish cause. Lord Spencer continued to enforce coercion until the fall of his party in 1885, but the league undertook no desperate resistance. "The Invincibles," a secret society composed of the most extreme on both sides of the Atlantic, caused the government much anxiety by their attempts to dynamite public buildings. Needless to say, Parnell had nothing to do with this faction. With Home Rule, the goal of a life's effort, in the offing, the Irish leader quietly marshalled his forces and garnered his strength.

<sup>71</sup> R. B. O'Brien, Vol. II, 34-6.

## CHAPTER VIII

### DUAL OWNERSHIP 1881-1903

#### *Extent*

IN ACCORDANCE with the provisions of the Act of 1881, most of the Irish tenants became "statutory tenants" holding at a fixed rent subject to change at intervals of fifteen years. Two agencies were competent to supervise the fixing of rents; the land commission and the civil bills courts. As a matter of practice the greater part of the work was accomplished by the former body, acting through sub-commissioners. The county court judges intervened but little in the application of the act. Less than 10 per cent of the first-term rents and less than 5 per cent of second-term rents came before their jurisdiction.<sup>1</sup>

Fair rents were determined either through judicial proceedings or by voluntary agreements between landlord and tenant. In the former case the procedure consisted of a formal application; inspection of the holding by a representative of the commission; and an oral hearing at which the landlord was represented by an expert valuer and the tenant by a neighbor, usually the schoolmaster. The sub-commissioners, in light of the evidence submitted and data secured independently, determined the fair rent of the holding. Appeals in regard to the amount of rent were adjudicated by the commissioners, while appeals relating to points of law were decided by the "Court of Appeal in Ireland." The proceedings in the civil bills courts were similar, except that the fair rent was determined by one man, the county court judge. After 1881 the land commission on the request of the

<sup>1</sup> See Tables I and V.



judge furnished independent valuers who aided him in ascertaining the essential facts.

In cases where the rent was determined outside court there was either an "agreement" or an "arbitration." In the former case the landlord and the tenant voluntarily came to an "agreement" as to a fair rent which they carried either to the land commissioners or to a county court judge. The sole duty of the authority was to see that the tenant suffered no injustice. Three months after the memorial was presented, the agreement was registered formally and the holding was deemed a "statutory" one. Proceedings in respect to "arbitration" were similar, but this method was rarely utilized.<sup>2</sup> After April 1882 the land commission upon application of the parties was permitted to lend the services of an expert valuer.<sup>3</sup>

During the first months of their administration the land commissioners had little to do, but when the tenants learned of the benefits which the act conferred upon them, the dictates of the league were thrown to the winds and applications poured in. For many years the average number was from two to twelve thousand monthly.<sup>4</sup> During the first five years the number of voluntary agreements exceeded the number fixed by judicial decision, and the commissioners were greatly pleased. "By adopting this method of settling rents, all litigation and, it may be said, all expense can be avoided," they reported.<sup>5</sup> It was believed, too, that in many instances agreements were reached which through a feeling of mutual confidence were not registered. But the tendency of the early 'eighties was a temporary phenomenon. Statistics show that nearly 60 per cent of first-term rents and 65 per cent of second-term rents were judicially fixed.<sup>6</sup>

<sup>2</sup> There were less than fifty "arbitrations" in all.

<sup>3</sup> H. Martens, *Die Agrarreformen in Irland*, 98.

<sup>4</sup> Table III.

<sup>6</sup> Tables I, V.

<sup>5</sup> *Land Commission Report*, I, sect. 3.

The commissioners were further disappointed in the amount of litigation aroused by the act. During the régime of dual ownership there were 100,000 formal appeals and over 40,000 actual rehearings. In other words one out of every five determinations made was unsatisfactory to one or both of the parties.<sup>7</sup> In general during the 'eighties the most important controversies had to do with points of law, while later ones concerned questions of valuing.<sup>8</sup> The three commissioners were burdened to such an extent that their judicial function was subverted to their function as administrators. Throughout the period herein discussed they were hopelessly in arrears in their task, usually having 10,000 appeals before them. Though the rehearings were "decided with a rapidity and a silence as to the grounds of the decision, which creates dissatisfaction in the minds of the litigants whose property is at stake," it was impossible for them to catch up.<sup>9</sup> The totally undreamed-of litigation aroused by this act became one of the chief arguments for its replacement by a more satisfactory system.

The cost of having a fair rent fixed was only £3 or £4, and since the rent was usually reduced, the first year's reduction ordinarily compensated for the outlay. But the expense of an appeal was high, on the average £10, and out of all proportion to the results obtained.<sup>10</sup> The chief losers, however, were the landlords who spent large sums to secure a negligible rise in the rents. Up to 1894 the landlords had secured in all an average rise of 0.02 per cent; an increase adding £2,383 to rents amounting to £466,471; but the total cost of these suits was over £250,000, or about £105 for each £1 added to the rent.<sup>11</sup>

The régime of dual ownership in Ireland may be said to have lasted from 1881 until the passage of the great Pur-

<sup>7</sup> Table II.

<sup>9</sup> Davitt, 251-2.

<sup>8</sup> Martens, 105.

<sup>10</sup> *idem.*

<sup>11</sup> *Morley Commission Report*, 814. See Table II.

chase Act of 1903. Statutory rents lingered in a few instances until abolished by the Land Act of the Saorstat Eireann in 1923.<sup>12</sup> Only 5,000 third-term rents were fixed in the years following 1911.

Over 11,000,000 acres, 55 per cent of the surface area—or more accurately, deducting barren lands, 65 per cent—were affected by the Act of 1881.<sup>13</sup> Concerning the remainder: much was excluded by law<sup>14</sup> and several million acres were bought under the terms of various purchase acts passed between 1869 and 1903. After considering all the facts, Martens is of the opinion that between 85 and 90 per cent of those eligible availed themselves of the privileges of dual ownership.<sup>15</sup> The Land Act of 1881, whatever its shortcomings, may fairly be said to have inaugurated a new economic era. It was an early example of State socialism carried out upon a gigantic scale.

Of greatest importance in regard to dual ownership are the facts relating to rent reductions.<sup>16</sup> Private rents amounting to £7,487,607 were converted into first-term rents worth only £5,936,268, a reduction of 20.7 per cent. More surprising still was the shrinkage of first-term rents worth £2,522,730 to second-term rents worth £2,031,159 a further reduction of 19.5 per cent. Third-term rents, much smaller in number, showed a reduction of 9 per cent. Geographically, the reductions were quite uniform. Where the first-term reductions were low, the second-term reductions were usually

<sup>12</sup> *Saorstat Eireann*, no. 42, Land Act, 1923, sect. 64.

<sup>13</sup> See Tables IV, V.

<sup>14</sup> To wit: demesnes of landlords, town parks, laborers' cottages, land let in conacre and (as amended by later acts) grazing lands of a ratable value exceeding £100 or on which the tenant did not reside. Leaseholders were excepted from the benefits of the act, but by amending acts (Land Act, 1887, sects. 1-3; Land Act, 1896, sect. 15) this group to the number of 30,000 was admitted.

<sup>15</sup> Martens, 107.

<sup>16</sup> See Tables IV, V.

high.<sup>17</sup> The landlords suffered an annual loss of £1,551,339 on first-term rents, and of £491,591 on second-term rents; a total loss of approximately £30,000,000 since 1881.

TABLE I

## FIRST TERM

		<i>By Court Decision</i>	<i>By Voluntary Agreements</i>		<i>By Arbitration</i>	<i>Totals</i>
Land Commission	197,804	90.2%	152,564		38	350,406
County Court						
Judge .....	21,510	9.8%	7,430		2	28,942
Total .....	219,314	57.8%	159,994	42.2%	40	379,348

## SECOND TERM

Land Commission	83,648	93.2%	50,675			134,323
County Court						
Judge .....	6,061	6.8%	156			6,217
Total .....	89,709	63.8%	50,831	36.2%		140,540
<i>Sum Total</i> ..	309,023	59.4%	210,825	40.6%		519,888

TABLE II

	<i>Appeals</i>	<i>Appeals Withdrawn</i>	<i>Per Cent of Change</i>
Land Commission .....	53,070	22,986	0.33
County Court .....	5,873	2,249	2.7
Total .....	58,943	25,235	
Land Commission .....	38,387	13,486	0.61
County Court .....	2,368	713	-0.43
Total .....	40,755	14,241	

<sup>17</sup> By counties, the first-term reduction was lowest in Kildare (17.6%) and highest in Clare and Kerry (24.1%), and the reduction in second-term rents vacillated considerably, being lowest in Meath (13.5%) and highest in Armagh (25.8%).

TABLE III

FIRST STATUTORY TERM	SECOND STATUTORY TERM	THIRD STATUTORY TERM
1881-1882 ..... 25,860	1896-1897 ..... 3,409	1911-1916 ..... 5,007
1882-1883 ..... 68,538	1897-1898 ..... 13,270	
1883-1884 ..... 55,041	1898-1899 ..... 18,567	
1884-1885 ..... 19,939	1899-1900 ..... 11,990	
1890-1891 ..... 18,396	1905-1906 ..... 7,477	
1895-1896 ..... 4,055	1909-1910 ..... 2,205	
1900-1901 ..... 5,224	1910-1911 ..... 1,485	
1905-1906 ..... 4,854	1911-1912 ..... 1,048	
1911-1912 ..... 1,056		

TABLE IV

FIRST TERM		Average Size of Single Holding	Per Cent of Reduction
	<i>Number</i>	<i>Acreage</i>	
Ulster .....	162,906	3,578,881	21.9
Leinster ....	63,400	2,559,126	40.3
Connaught..	82,482	1,876,395	22.7
Munster ....	70,560	3,267,447	46.3
<i>Ireland ...</i>	<i>379,348</i>	<i>11,281,850</i>	<i>20.7</i>
SECOND TERM			
Ulster .....	73,300	1,670,538	22.7
Leinster ...	17,807	850,506	47.7
Connaught..	27,201	659,326	24.2
Munster ....	22,232	1,140,132	51.2
<i>Ireland ...</i>	<i>140,540</i>	<i>4,320,504</i>	<i>19.5</i>

TABLE V

FIRST-TERM RENTS					
Fixed by					<i>Per Cent</i>
Judicial Proceedings	<i>No.</i>	<i>Acres</i>	<i>Prior</i>	<i>Judicial</i>	<i>of Re-</i>
			<i>Rent (£)</i>	<i>Rent (£)</i>	<i>duction</i>
By Land Commission ...	197,804	6,523,613	4,492,966	3,495,972	22.4
By Civil Bills Court ....	21,510	643,493	401,813	303,277	25.6
Total .....	219,314	7,167,107	4,894,780	3,799,250	
Fixed by					
Agreement					
By Land Commission ...	152,564	3,921,954	2,462,743	2,029,548	17.6
By Civil Bills Court ....	7,430	189,323	126,660	105,024	17.1
Total .....	159,994	4,111,278	2,589,404	2,134,573	



TABLE V

FIRST-TERM RENTS (*Continued*)

Fixed by Arbitration	No.	Acres	Prior Rent (£)	Judicial Rent (£)	Per Cent of Re- duction
By Land Commission ..	38	2,996	2,878	2,105	26.9
By Civil Bills Court ....	2	469	544	340	37.5
Total .....	40	3,465	3,422	2,445	
Sum Total .....	379,348	11,281,850	7,487,606	5,936,268	20.7

## SECOND-TERM RENTS

Fixed by Judicial Proceedings	No.	Acres	Prior Rent (£)	First-Term Rent (£)	Second-Term Rent (£)	Per Cent of Re- duction
By Land Commission ..	83,648	2,821,304	2,212,761	1,751,638	1,397,761	20.1
By Civil Bills Court ..	6,061	224,043	151,793	120,210	96,058	20.1
Total .....	89,709	3,045,347	2,364,555	1,871,849	1,493,821	
Fixed by Agreement						
By Land Commission ..	50,675	1,272,733	802,222	649,188	535,909	17.4
By Civil Bills Court ..	156	2,423	2,110	1,691	1,428	15.6
Total .....	50,831	1,275,156	804,332	650,880	537,338	
Sum Total ..	140,540	4,320,503	3,168,887	2,522,729	2,031,159	19.5

## THIRD-TERM RENTS

*Brief Summary*

Number .....	718
Acres .....	24,278
Prior Rents (incomplete) .....	£21,094
First-Term Rents .....	£17,265
Second-Term Rents .....	£12,735
Third-Term Rents .....	£11,460
Per Cent of Reduction .....	10

*Dual Ownership: A Critique*

In spite of the wide application of the system of judicially fixed rents, Gladstone's work gave small satisfaction to

critics. The system of dual ownership was attacked chiefly on the following grounds: 1—that the Act of 1881 could not be equitably administered because it contained many inherent defects; 2—that the personnel of the land commission was incapable and partisan; 3—that a great injustice was done the landlords; 4—that the peasants were poorly treated; 5—and finally that dual ownership could not solve the land question. These matters can be treated but briefly here; the literature of the subject is large and highly controversial.<sup>18</sup>

All critics are agreed that the Act of 1881 contained glaring defects. Undoubtedly the results would have been happier had Gladstone chosen not “to amend the Act of 1870,” but to abolish it and introduce a new code of land laws for Ireland. This was, for political reasons, not attempted and in consequence the dependence of whole sections of the new act upon its predecessor served to obscure rather than clear up the intricacies of Irish land. The greatest defect of the act, however, was the absence of any definition of “fair rent” or of any provisions laying down a method for its determination. Neither the administration nor the courts were able to remedy the shortcoming although the subject constantly confronted them. As late as 1894 the Morley commission reported: “There is neither a common understanding of the law nor anything approaching to uniformity in practice”;<sup>19</sup> and in 1898 this finding was reiterated by the Fry commission: “Our experience convinces us that what was true in 1894 is true now.”<sup>20</sup> On what basis, then, was this act administered?

“The court,” it was stated, “after hearing the parties, and having regard to the interest of the landlord and tenant

<sup>18</sup> These questions are treated at length by Lecky, *Democracy and Liberty*, Vol. I, 185-204; and in O'Connor Morris, *Present Irish Questions*, chaps. iv-vi. Both are hostile to the Gladstonian legislation. Paul-Dubois, *Contemporary Ireland*, and Montgomery, *The History of Land Tenure in Ireland*, are brief and favorable accounts. Martens, *Die Agrarreformen in Irland*, Part 2, chap. II, is brief and impartial.

<sup>19</sup> *Morley Commission Report*, VII.

<sup>20</sup> *Fry Commission Report*, 13.

respectively, and considering all the circumstances of the case, holding and district, may determine what is such a fair rent.”<sup>21</sup> This was the broad principle, but, aside from several safeguards in favor of the interest of the tenant, nothing more was said on the subject of rent fixing. The famous Healy clause was designed to protect the tenants’ improvements. “No rent shall be allowed or made payable in any proceedings under this act in respect of improvements made by the tenant or his predecessor in title, and for which, in the opinion of the court, the tenant and his predecessors in title shall not have been paid or otherwise compensated by the landlord or his predecessors in title.”<sup>22</sup> The act in addition laid down the doctrine that the price for the tenant right should not “of itself, apart from other considerations, be deemed a ground for reducing or increasing the rent of such a holding.”<sup>23</sup> It was feared that the courts might be inclined to raise the rents where a high tenant-right payment had been made. However, even after considering these two limitations upon the principal provision, the authorities were left with small guidance in their outstanding duty.

Critics have delighted in pointing out tests for the determination of fair rents of which Gladstone might have availed himself. Lecky, for instance, deplores the scant consideration given the recommendation of the Bessborough commission that “a rent which was paid at any time within the last twenty years, and which continued for not less than ten years to be regularly paid” be adopted as a fair one.<sup>24</sup> Gibson (later Lord Ashbourne) proposed in the House that all rents which had not been increased during the past twenty years should be deemed fair and exempt from the jurisdiction of the court. If adopted, this provision would have applied to no less than 4,700,000 acres of land; and would have greatly

<sup>21</sup> Sect. 8 (1).

<sup>23</sup> Sect. 8 (10).

<sup>22</sup> Sect. 8 (9).

<sup>24</sup> Lecky, *Democracy and Liberty*, Vol. I, 188-9.

lightened the burden imposed upon the land commission. The commissioners, however, probably regarded all such schemes in the same light as the adoption of the Griffith valuation of 1852 as a basis for the determination of a fair rent. "Our experience leads us to view with great distrust the utilization of any mechanism of this kind for the careful investigation of each particular farm by skilled men."<sup>25</sup>

Before the act had been in force six months, a great controversy arose as it became apparent that a decision of the Dublin court of appeal (*Adams v. Dunseath*, February 1882) would rob the Healy clause of much of its intention. This court decided: "The tenant is entitled to an annual percentage on his outlay in making the improvement; but that any remainder of letting value due to his improvement, after the percentage on outlay has been allowed to him, is to be divided between him and the landlord, according to the judicial discretion of the Land Commission. . . ." <sup>26</sup> In time, too, the presumption that all improvements not belonging to the landlord had been made by the tenant, was sacrificed. The tenant was permitted a claim only to such improvements as he was prepared to prove were his through the testimony of sworn witnesses. Often where the only witnesses had died, there was an injustice. In 1894 Estates Commissioner Bailey testified to the Morley commissioners: "We only allow the improvements that have been put in the notice and that have been proved in court. Tenants who have recently succeeded or who cannot get any neighbor as a witness who have seen the work done are shut out from any allowance."<sup>27</sup> The chaos to which the question of improvements had arrived due to the interference of the courts is shown in the statement of the court of appeal "that the direction of the act not to allow any rent in respect of the tenant's improvements must be taken to mean not what the

<sup>25</sup> *Land Commission Report*, 1889, 6.

<sup>27</sup> Quoted in Martens, 102.

<sup>26</sup> Quoted in Davitt, 325.

language of the act conveys to the ordinary mind, but something different and much more complex," an opinion which the Morley commissioners condemned as leaving the tenants' interest undefined and unprotected.<sup>28</sup> "The general practice of the sub-commission has been, and is, to deny the tenant that share in the value of his improvements to which the court of appeal declared him to be entitled and to leave out of account that interest of the tenant to which the statute expressly directed the courts to have regard."<sup>29</sup>

This condition of affairs aroused such ire that in 1896 an act was passed laying down precise rules for the determination of rent and in regard to the reductions for the tenants' improvements. The land commission was directed to estimate, first, a gross figure of rental provided all the improvements were the property of the landlord, and, secondly, the amount to be deducted for these improvements were they the tenant's, so as to arrive at, thirdly, a fair net rent.<sup>30</sup> The necessary information was carefully tabulated on a document called "the pink schedule." In this manner it was hoped that the shortcomings of the act might at last be patched up. The land commissioners, however, pursued a policy that rendered the rent-fixing process as obnoxious as ever. The sub-commissioners estimated a gross fair rent, but arrived at it by estimating the value of the holding exclusive of the buildings and then adding a fair rent for the buildings. From the sum total they then proceeded to deduct the improvements made by the tenant. But in practice it was impossible to estimate the fair rent of a farm exclusive of the buildings on it, without unconsciously taking account of the buildings into this valuation. In the total, therefore, it was charged, the buildings were reckoned twice over and the tenant bore the loss of the miscalculation.<sup>31</sup>

<sup>28</sup> *Morley Commission Report*, VII.

<sup>29</sup> *ibid.*

<sup>30</sup> 59 and 60 Vict. c. 47, sect. 1.

<sup>31</sup> Davitt, 266-7.



In 1897 the landlords were thrown into a furor by the enormous reductions made in fixing the second-term rents. The government with some reluctance consented to an inquiry into the practice and procedure governing rent fixing. This commission, headed by Sir Edward Fry, a learned judge, proceeded to make an examination of 183 witnesses throughout Ireland. It arrived at the conclusion that the prevailing practice "gives opportunity for dissatisfaction, and leaves much more for improvement; . . . and that the settlement of fair rents has been effected in an unsatisfactory manner, with diversity of opinion and practice, sometimes with carelessness, and sometimes with that bias towards one side or the other which exists in many honest minds."<sup>32</sup> The Fry commission made many recommendations, but few were adopted. The régime of dual ownership was stamped with all the weaknesses of vacillation which mark the administration of an indecisive statute of law.

Once the inherent defects of the act are granted, the other charges in regard to dual ownership follow quite naturally. The land commission was called upon to interpret as well as to administer; in other words, forced to usurp power, with the result that regardless of the quality of its work it laid itself open to all kinds of accusations. Contrary to expectation it was swamped with applications almost from the beginning. Obviously it became impossible for three commissioners to determine rents for all Ireland. The commissioners therefore delegated their rent fixing authority to sub-commissioners. The land commission was severely criticized for not having acted in a single case as a court of first instance and especially because it neglected to obtain a standard for rent fixing by trying test cases. Even in the matter of appeals, its main function, it did not give satisfaction. But it must be remembered that nearly one hundred thousand came before it, and, as was testified, "appeals would have crushed the land

<sup>32</sup> *Fry Commission Report*, 12, 26.

commissioners, had they not been crushed by them.”<sup>33</sup> The commissioners in railroading through rehearings were forced to lay great stress upon the conclusions of subordinate valuers and undoubtedly much injustice was done.<sup>34</sup>

The sixty or more sub-commissioners performed their work with great zest, but with little guidance. From the first they were ill-equipped for the work (the qualifications were raised gradually) and in addition they were poorly paid, usually being compensated by the job. It was stated: “They are interested in valuing the land as low as possible in order to get as many valuations as possible for which they are paid by the day.”<sup>35</sup> To delegate such great power to men who were not only not judges but who were intensely partisan, and to expect fair judgments, was folly. The large number of appeals testified to the general dissatisfaction. But the chief responsibility for the maladministration reverts to the act itself. Martens states: “Feste Richlinien für ihre Arbeit wurden den Unterkommissaren bei ihrem Amtsantritt nicht gegeben; es fand nur eine Konferenz statt, bei der die einzelnen ihre Ansicht darüber äussern sollten, was sie denn überhaupt unter einer ‘fair rent’ verstunden. Die Landkommissare selbst gaben jedoch keine Direktiven.”<sup>36</sup> The sub-commissioners received no specific guidance for their conduct from the chief commissioners, who in turn were unable to give what they had not received.

In 1882 a select committee in the House of Lords gave full warning that the decisions of the sub-commissioners were indifferent and impractical, but as the committee received little encouragement from the Lower House its investigations came to naught. Lecky’s remarks on the proceedings are scathing. The sub-commissioners were “let loose upon property,” having clearly in their minds that their business was not to regulate but to reduce the rents. “Their popularity or unpopularity

<sup>33</sup> *Fry Commission Report*, 156, 615.

<sup>34</sup> *ibid.*, 30.

<sup>35</sup> *ibid.*, 13; Martens, 112.

<sup>36</sup> Martens, 99.

depended on the amount of the reductions and they knew that the wildest expectations were excited."<sup>37</sup> Lecky is nearer the truth in saying "they usually gave their decisions without assigning any reasons."<sup>38</sup> But this is not surprising in view of the fact that there was no general rule for the determination of a fair rent. The Morley commission reported "they differ among themselves as to the principles and methods which should form a basis for their work."<sup>39</sup> In truth "fair rents" were determined by the very homely process of "higgling." Despite all criticism something is to be said for it, in that it worked quickly and accorded each claimant an opportunity of presenting his views, thereby making it impossible for the valuation to neglect any important circumstance in connection with "the case, holding and district."<sup>40</sup>

That the landlords suffered heavy losses in income by the reductions has already been indicated. Dual ownership broke them financially as the reform act of 1884 broke them politically. Henceforth their plight was almost pitiable. For them, to use Northcote's phrase, the Act of 1881 inaugurated a régime of Force, Fraud and Folly. "Les lois agraires que M. Gladstone a fait voter pour l'Irlande," wrote Laveleye, "et que l'on trouve déjà insuffisantes portent au principe de la propriété et du libre contrat une atteinte plus radicale que ne l'ont fait la révolution française et même la Terreur. . . . A moins de confiscation on ne peut guère aller plus loin."<sup>41</sup> Lecky wrote bitterly that the true crime of the Irish landlords was their loyalty.<sup>42</sup>

Few adherents of the bill dreamed that it would be the means of establishing a new régime in Irish land. It was anticipated that its provisions would reduce exceptional and ex-

<sup>37</sup> Lecky, *Democracy and Liberty*, Vol. I, 189-90.

<sup>38</sup> *ibid.*, 189.

<sup>39</sup> *Morley Commission Report*, 16.

<sup>40</sup> Martens, 112-13.

<sup>41</sup> Laveleye, *Le Gouvernement dans la Démocratie*, Vol. I, 31-2.

<sup>42</sup> Lecky, Vol. I, 193.

tortionate rents to the general average. Few, however, believed that the authority of the court would be extended to the bulk of Irish tenancies or made use of to create a new level of rental.<sup>43</sup> Indeed it was hoped that rents would be raised as well as lowered and in consequence the great mass of moderately rented tenants would abstain from going into the courts.<sup>44</sup> "My view," said John Bright, "is that in reality the rents of Ireland will for the most part, in nine cases out of ten, be fixed very much as they are now."<sup>45</sup> Lord Carlingford, who was largely responsible for the bill in the House of Lords, stated the case for the government with great sincerity. "My lords, I maintain that the provisions of this bill will cause the landlords no money loss whatever. I believe that it will inflict upon them no loss of income, except in those cases in which a certain number of landlords may have imposed upon the tenants excessive and inequitable rents, which they are probably vainly trying to recover."<sup>46</sup> Gladstone thought that in the long run the rents would be lowered somewhat in the first process. But at all events he was convinced that the increased value of the land derived from the greater solidarity of the social state would "repay the landlord for any incidental mischief of the act twofold or more likely threefold."<sup>47</sup>

And yet the host of Liberals who later bemoaned the trust they had put into the act might have recalled the dire fate prophesied by Gladstone in 1870 for any measure involving rent fixing. "By such a provision," he had said, "the landlord will become a pensioner and rent-charger upon what is now his own estate."<sup>48</sup> This prophecy was amply fulfilled by the Act of 1881. True, the landlord retained the remedies of distress, ejectment, action and injunction; he was allowed to enter the tenant's land for the purpose of mining and quarry-

<sup>43</sup> Lecky, Vol. I, 193-4.

<sup>44</sup> *idem*, 194.

<sup>45</sup> *Hansard*, Vol. 261, 103.

<sup>46</sup> *ibid.*, Vol. 264, 352.

<sup>47</sup> *ibid.*, see Vol. 263, 1696-7.

<sup>48</sup> *ibid.*, Vol. 194, 351.

ing; he retained his sporting rights; he held the reversion of the tenant's estate and finally he had a right every fifteen years to a revision of the rent.<sup>49</sup> But the fundamental rights of property were denied him. He could not rent to whom he pleased, he could not rent at the market price and could not contract as he saw fit. Worse still, he had to confront periodical reductions of the rent, which meant not only loss of income, but a deterioration of property values. There was little market for land yielding an ever-dwindling income. Irish landlords had been forced into a course from which there was little chance of escape.

Gladstone in the course of the debate on the bill had said: "I do not hesitate to say that if it can be shown, on clear and definite experience, at the present time, that there is a probability, or if after experience shall prove that, in fact, ruin and heavy loss has been brought on any class in Ireland by the direct effect of this legislation, that is a question we ought to look directly in the face."<sup>50</sup> And again he said: "I certainly should be very slow to deny that where confiscation could be proved, compensation ought to follow."<sup>51</sup> But no provision was made for such an exigency in the act and no English party ever seemed anxious to raise its hand to help a group which had been rendered economically and politically impotent.

The landlords had many complaints to make of the act as it affected them. They claimed that the improvements purchased by them under the Encumbered Estates Act (1849) were confiscated without compensation; that the commissioners did not allow them sufficient consideration for the huge sums they had invested in the land since 1845; that the sub-commissioners were instructed to reduce the rents as the price of social peace; that the tenants were universally granted a lower rent by reason of an "occupation interest" which was

<sup>49</sup> Montgomery, 169.

<sup>51</sup> *ibid.*, 586

<sup>50</sup> *Hansard*, Vol. 261, 585.



not provided for in the act; and that they were penalized because the tenant deliberately allowed his holding to deteriorate a year before the running out of the statutory period and so obtained a reduced rent.<sup>52</sup> There was undoubtedly some malpractice in each instance; indeed, an interest by reason of occupation seems for a time to have received sanction. In the case of wilful deterioration, the commissioners effectively put an end to it by either making an allowance for it or by delaying their decision for several years, until the tenancy was restored to a normal condition.<sup>53</sup> The landlords had reason to complain when, after a further fall in agricultural prices, the first-term judicial rents were, in 1887, reduced for a period of three years. The Unionist government argued that it could not remain passive in the face of distress and a nasty political situation; but the fact remains that faith was broken, for the Act of 1881 specifically provided that "an alteration of judicial rents shall not take place at intervals of less than fifteen years."<sup>54</sup> Here again there was no compensation.

One finding of the Fry commission (1898) states: "We thus feel ourselves unable to conclude that the machinery of the land statutes has been uniformly worked with injustice to the landlords."<sup>55</sup> This statement has been frequently utilized as ultimate proof that the landlords suffered little injustice as a result of the legislation of 1881. Interpreted, however, in its broadest sense, it merely affirms that the landlords were not discriminated against in the application of the details of the act. The fact remains that in one instance they lost 20.7 per cent of their incomes, and in a second instance, 19.7 per cent. In his speech on the introduction of the bill, Gladstone vindicated the main body of the landlords in respect of the imputations cast upon them by the Land League. As has been shown,

<sup>52</sup> O'Connor Morris, 219 ff.

<sup>53</sup> *Royal Commission on Congestion*, Vol. III, 16, 336.

<sup>54</sup> Sect. 8.

<sup>55</sup> *Fry Commission Report*, 26.

the act was not intended to confiscate the property of the class ; but simply to penalize the few who persistently refused to admit that property has its duties as well as its rights. Nevertheless much evidence exists which testifies to the fact that the landlord class was penalized as a whole. A witness testified before the Fry commission that : "As the result of all cases that were heard, in only 8 per cent of them was there any increase of rent for many years prior to 1881 proved." <sup>56</sup> But whether the sub-commissioners were dealing with an estate on which for centuries the rents had remained unchanged, and on which the tenants had been fairly treated, or whether they were dealing with estates that had come into the hands of speculators by purchase in the landed estates court, in all cases the result was the same. They deducted between 15 and 20 per cent from the existing rent no matter how long it had existed and no matter upon what estate it was being paid. <sup>57</sup>

"The landlords," states Lecky, "who have suffered least have probably been those who simplified their properties by the wholesale evictions, the harsh clearances, that too often followed the Famine. . . . The large class who simply regarded land as a source of revenue, and, without doing anything harsh, or extortionate or unjust, took no part in its management, have suffered very moderately. It is the improving landlord, who took a real interest in his estate, who sank large sums in draining and other purposes of improvements, who exercised a constant and beneficent influence over his tenants, who has suffered most from the legislation that reduced him to a mere powerless rent-charger, and in most cases rendered the sums he had expended an absolute loss." <sup>58</sup>

Though the adherents of this measure, in promulgating the act, could not foresee its dire consequences, at least it was their duty to amend it in such a way as to secure justice. Or, if they chose to regard this as a case in which the public wel-

<sup>56</sup> *ibid.*, 41.

<sup>57</sup> *ibid.*

<sup>58</sup> Lecky, *Liberty and Democracy*, Vol. I, 205-6.

fare in Ireland demanded the execution of the law, it would have been well in "relegating the laws of political economy to Saturn," to have accepted the doctrine of Mill. "The claim of the landlords is altogether subordinate to the general policy of the State. The Principle of Property gives them no right to the land, but only a right to compensation for whatever portion of their interest in the land it may be the policy of the State to deprive them of. To that their claim is indefeasible. It is due to landowners, and to owners of any property whatever, recognized as such by the State, that they should not be dispossessed of it without receiving its full pecuniary value, or an annual income equal to what they derived from it."<sup>59</sup>

It hardly seems possible in view of the general reduction of rents, that the tenants could be dissatisfied with the new régime, but on that point we are assured "they are quite as far from being contented as the landlords. They consider the reductions insufficient; they say that they are unjustly treated; they accuse the land commission of being biased in favor of the landlords. And a close examination proves that their complaints are not always unfounded even though, on the other hand, they are not always justifiable."<sup>60</sup> The tenants claimed that the reductions made by the land commission were insufficient in view of the average fall in the price of land produce during the twenty-five years following the enactment of the act. They alleged, further, that the burden of the loss was unjustly divided between the interested parties by the commissioners; that the tenants bore two-thirds and the landlords only one-third. The theory of loss incurred through the diminution in the selling price of agricultural produce is as difficult to defend as to demolish. Few economic students accept the tenants' point of view, however, since it does not consider reductions in the cost of production due to progress in scientific farming, better breeding, agricultural machinery,

<sup>59</sup> Mill, *Political Economy*, Book II, chap. II, 285.

<sup>60</sup> Paul-Dubois, 261-3.

cheaper transportation and better marketing facilities, advantages which the Irish tenants did not share.

To add weight to their case the tenants have risked a comparison with agricultural conditions in England; rather heedless in view of the fact that one of the chief staples of Irish reformers has always been the total dissimilarity of the landed relations of the two countries. In the Morley Report it is stated: "Agricultural rents in England, where the tenant generally makes no improvements, and possesses no legal property in the holding, have given much heavier reductions in the same period, by voluntary action of the landlord."<sup>61</sup> Indeed the average fall in English rents from 1870 to 1900 amounted to as much as 50 per cent.<sup>62</sup> But in the Fry Commission Report an explanation of this phenomenon was made. It was pointed out that in England many farms could no longer find a tenant, "in many places all rent is a thing of the past and the land is going to waste." This, surely, was not the condition of affairs in Ireland. In England the farms were larger and were for the most part devoted to the raising of cereals. When the competition of foreign grain cut down the profits of English agriculture, the farming class turned to more gainful enterprises in the cities. Irish agriculture was not even broadly specialized. True there was a market in England for her grazing and dairy products but in the absence of industry, the small holding was an indispensable need. Consequently the argument that Irish rents should be reduced on the same scale as English rents is extremely faulty.<sup>63</sup>

The tenants, too, had many faults to find with the manner in which the act was administered. They claimed that in the event of a landlord exercising his right of preemption, the land commission fixed the price of preemption far too low; in fact, far below the price which could have been obtained in the open market, thereby destroying free sale. But the land

<sup>61</sup> *Morley Commission Report*, VI. <sup>63</sup> *Fry Commission Report*, 25.

<sup>62</sup> Paul-Dubois, 263, n. 12.

commission was merely acting upon the principle that the whole aim of the act was to destroy free competition in land, and for that reason fixed the price of preemption at a lower rate than under free competition just as it fixed "fair rents" at a lower rate than those obtainable under free competition. The dissatisfaction aroused by the belief that the commissioners valued the improvements twice in determining a "fair rent" has been discussed. Whatever injustice was here wrought reverts to the absence of any standard in rent fixing. The objections of the tenants to proving their improvements are technically just, though upon reflection it would seem that greater injustice might have been done by accepting the multitude of claims sure to appear in the absence of any requirements of proof. It was claimed that the land commission, contrary to the spirit of the law, found ways of taxing the tenant's improvements and the investments he had made in the land apart from his normal cultivation. Assertions that rents were kept up on account of the income derived from fishing, and kelp gathering, the presence of orchards on the holding, the proximity to markets, the increased yield due to heavy manuring, the profit derived from keeping open a small mill or shop, and for turbary privileges, were all frequent and had their effect in shaking the confidence of the tenants in the courts. The commissioners defended themselves on the ground that they were taking into consideration "all the circumstances of the case, holding and district," in fixing a fair rental.<sup>64</sup> In conclusion it is impossible to prove that the tenants were uniformly treated unfairly. As a class they gained materially while as a class the landlords suffered heavily.

Gladstone anticipated confidently that the Act of 1881 would work a permanent solution to the Irish land question. He was willing to sacrifice certain rights of property as the price of social peace. Only a few years elapsed, however, before all were willing to admit that dual ownership had come

<sup>64</sup> Sect. 8 (1).



to mean something entirely different than had been intended. It did not bring about social peace in Ireland; instead, it inaugurated an orgy of law suits renewable every fifteen years. Ireland had become a lawyer's paradise. Neither did dual ownership break up the fierce competition for land. The tenant no longer competed for the landlord's land since his interest had become a fixed and known quantity. Instead the tenants entered into competition for the tenant right. In bidding for the farm of an outgoing tenant, the applicants bargained fiercely against each other, not for the appurtenances of the farm, but for the right to obtain a holding at a fixed rental. And in this new struggle for land the tenant suffered as before. He borrowed money to obtain the land; he was in debt to the money-lender; he could not make ends meet; and had to sell out as best he could or be evicted for violation of statutory conditions. The Land Act of 1881 did not remove the competition for land.

Dual ownership proved to be unsound economically as well as socially.<sup>65</sup> The landlord, relegated to the position of an annuitant, ceased to take any further interest in Irish agriculture. He would undertake no improvements since there was little hope of ever gaining anything from the outlay. The individual tenants were unable to assume any such responsibility and as a group there existed neither the will nor the knowledge nor the guidance for cooperative enterprise. The desire was just as it had been for generations, to occupy a piece of land and to hold it at all costs. Dual ownership was hardly an incentive for the development of whatever potential qualities of independence that had lain dormant for centuries in a people subjected to economic servitude. In fact, dual ownership seemed to place a premium upon inertia and slovenliness. The tenant commonly accepted the theory that any display of improvement or thrift would only be penalized in the

<sup>65</sup> The Act of 1881 has found a few defenders. See Shaw-Lefevre, *Agrarian Tenures*, London, 1893.

form of an increased rent. Dual ownership only postponed the dawn of agricultural prosperity in Ireland. In a country where small holdings abound the only possible road to agrarian prosperity is by way of the collective cooperation of thousands of peasant proprietors. Single ownership by the occupier is the prerequisite of agricultural cooperation.

Although not a permanent solution of the land question, dual ownership represents a certain stage in the emancipation of the peasant occupier from economic servitude. The Act of 1881 legalized the demands of the bulk of Irish occupiers. It, of course, was hardly satisfactory to Davitt and his radical followers, nor was it good politics for the Parnellites to bestow too much praise upon it. But it was a reform in accord with Irish customs and ideas. The dirt farmer was familiar with all its implications and for him, as Morley phrases it, it was Magna Carta. But dual ownership did not and could not bring agricultural prosperity and was thrown ultimately into the discard. One must bear in mind, too, that dual ownership abolished forever the absolute power of the landlord, which had been the strongest factor in arousing disaffection in the country.<sup>66</sup>

The judgment of Leroy Beaulieu, made before the bill became law, proved to be singularly prophetic. "Ainsi le bill ne peut-il être regardé que comme un compromis provisoire ou une mesure de transition ; il ne donne pas à la question agraire une solution, il la prépare plutôt."<sup>67</sup> Time has shown that though the tenants made universal use of dual ownership, yet once Parliament had sanctioned a thoroughgoing measure of peasant proprietorship, they willingly relinquished the three F's to assume the responsibilities of single ownership. Lord Landsdowne and others believed that by the act the tenant's position would be so fortified that he would not care to face

<sup>66</sup> *Annual Register*, 1881, 211.

<sup>67</sup> *Revue des deux mondes*, Juli 1881, 160.

the risk that proprietorship entailed.<sup>68</sup> This happily was not the case. It did not take into consideration the passion for the land which is prevalent among all peoples who live close to the soil.

<sup>68</sup> *Annual Register*, 1881, 111.

## CHAPTER IX

### LAND PURCHASE IN POLITICS (1882-1886)

#### *Party Manœuvres*

AS A RESULT of the "Avondale Treaty" in the fall of 1882 opposition to Parnell's leadership came to an end. The undisputed leader of the Irish world, at home and abroad, the accepted chief of the parliamentary party and the head of the National League, he was truly an uncrowned king. At the head of forces that were at once powerful and precarious he had wrung from Gladstone the Act of 1881 and the Kilmainham Treaty. The folly of assassins, however, led to the resumption of coercion and thus the glory of the latter triumph had been somewhat tarnished.

Fortunately, the policy of the government coincided with that of Parnell. The agrarian revolution had brought to the surface a group of irreconcilables—Physical Force men—whom Parnell could not hope to control. These he could well afford to entrust to the mercy of Lord Spencer. Indeed, by 1882 the revolution had spent itself and there seemed little to be gained in continuing the struggle. With the return of normal harvests the people, wearied of the strife, showed an unwillingness to submit to dictation. They were far more interested in reaping the benefits accorded them in the Act of 1881. Parnell had no desire to lead a movement that was not sanctioned by the people; hence his decision to call a halt.

After Kilmainham he veered sharply in his course. In Ireland he outlawed the agitation and would have nothing further to do with it. At the same time he concentrated every effort to creating a demand for Home Rule in every parish in Ireland. The agrarian revolution had revealed among the people

a strong sense of nationalism which, he was resolved, should not be allowed to slumber. Here, then, was the first task—to weld the Irish people into a political unit that should have for its object a single purpose, self-government.

His second task was just as difficult. In Parliament and in Great Britain, as a result of the agitation, there existed a feeling that Parnell and the Irish party were the abettors of crime and violence. So long as this revulsion possessed men's minds, there was little hope of accomplishing anything in Parliament. Parnell, therefore, publicly announced his intention of abiding by the terms of the Kilmainham agreement. When Parliament deemed it necessary to pass a coercive law after the Burke-Cavendish murders, though he remonstrated against the policy, he would countenance no retaliation. He had kept his word. Immediately there was a reaction in his favor. In circles where, shortly before, he had been regarded as an arch-rebel, he was received as the respected leader of a third party.

Parnell, aware of the Englishman's love of power, was content to bide his time. In the game of "in and out" he suspected that no effort would be wasted to gain the support of the Irish phalanx. As an ally of one of the major parties he could expect concessions. His diagnosis of the situation was correct. In fact, until Gladstone publicly accepted Home Rule, the parties engaged in a series of shrewd thrusts and counter-thrusts for Irish support. Their advances were limited only by the fear of offending the susceptibilities of their constituents. This attitude, as we shall see, resulted in a new approach to Irish problems. The propositions of the competitors with regard to coercion, land and government, though dictated by motives of expediency, were arrived at through inquiry and open-minded consideration. Indeed, in many instances, the proffered solutions were so nearly identical that Parnell, perplexed, found himself veering first towards one party and then towards the other.



The Conservatives, in the opposition until 1885, enjoyed an advantage over their rivals. They could and did taunt the government for retaining coercion, for wilfully depriving a large portion of Her Majesty's subjects of the fundamental rights of civil liberty. But their master stroke lay in the frank acceptance of State-aided purchase as the means of settling the land problem. From this vantage point they could attack at will the Gladstonian settlement with all its cumbrous and artificial arrangements.

Those who conceived the Tory land purchase scheme came by their convictions honestly. In the early months of 1882, W. H. Smith and E. Gibson (later Lord Ashbourne), two prominent members of Parliament, after consulting with many Irish landlords and officials, arrived at the conclusion that a peasant proprietary would be the most effective guarantee against the chronic social and political disorders. To impress upon his colleagues the necessities of the situation, Smith persuaded Longfield, chief judge of the Irish landed estates court, to draw up a memorandum on the subject.<sup>1</sup> In a letter written in April, Longfield set forth the arguments in favor of a peasant proprietary. "Every property in land," he stated, "enlists, pro tanto, its proprietor in the cause of law and order against anarchy and tumult."<sup>2</sup> The occupiers vested with ownership would soon turn their backs upon the professional agitator.

For the State to interfere in matters of buying and selling among individuals was under ordinary circumstances inadvisable, yet "this rule," wrote Longfield, "is not applicable to the case where the State is called upon to give or lend money, or to incur pecuniary liability in order to promote some object of great public utility."<sup>3</sup> If the State were to lend the occupier

<sup>1</sup> H. Maxwell, *Life and Times of the Right Honourable William Henry Smith*, Vol. II, 347-53.

<sup>2</sup> *ibid.*, 347.

<sup>3</sup> *ibid.*, 349.

the whole of the purchase money on terms which would not exceed his present rent, the object could be effected without loss to the State. Since the price of land rarely exceeded twenty years' purchase of the rent, it would be possible by extending the period of repayment through thirty-five years to fix the occupier's annuity at less than his rent. The State could secure the necessary capital by borrowing, as the price of consols bore proof, at less than  $3\frac{1}{2}$  per cent. To guard against the repudiation of annuities and to obtain a security in addition to the value of the holding, which in some cases would be inadequate, Longfield suggested that all losses be made recoverable from the county rates. "It is not likely," he wrote, "that a man's neighbors will assist or encourage him to resist the payment of a just debt when the consequence of a successful resistance will be that they must pay it themselves."<sup>4</sup>

Thus the Tories arrived at a definite Irish policy—to abolish coercion and to initiate a constructive land policy, while their rivals were still engulfed in the meshes of conscious failure. This policy Lord Salisbury announced to the country in a bye-election speech at Liverpool. "I believe," he said, "that the Land Act will have to be altered and that it can only be altered in one direction. I am not one of those who believe that after a revolutionary step you can go back. It is one of the curses of revolution that it separates you by a chasm from the past which you have left—a chasm which you can never recross. If you wish to establish peace and contentment in Ireland—I do not say that my hopes are sanguine or that the prospect is great—you must do your best to bring the ownership of land into single hands. You will see that I am referring to the proposal of which notice has been given by my distinguished friend, Mr. W. H. Smith, for increasing the powers under which the commissioners can now act, to enable Irish tenants, with perfect fairness and justice to their

<sup>4</sup> *ibid.*, 352.

present landlords, to become themselves owners of the land.”<sup>5</sup>

Public opinion discerned two objects in Salisbury's utterance, a move to outflank the Liberals in the Irish situation and a bid for the support of the English and Scotch democracy.<sup>6</sup> According to press forecasts, it was believed that the Liberal party, while retaining coercion, would meet its opponents' sortie with an arrears clause, an emigration measure and an extension of the existing facilities for land purchase.<sup>7</sup> Parnell was delighted. “It is unnecessary for me,” he wrote, “to dwell upon the enormous advantage to be derived from the full extension of the purchase clauses which now seem practically to have been adopted by all parties.”<sup>8</sup> The Tory enthusiasm, however, was halted by the Burke-Cavendish catastrophe and land purchase was quietly dropped from their program. They joined in acclaiming coercion and resumed their rôle as champion of the landlords “against the rising tide of Socialism or worse.”

Almost a year elapsed before Parnell ventured to recall the subject. In March 1883 he introduced a land bill which contained, among others, a provision enabling tenants to borrow the whole of the purchase money from the State and extending the period of repayment through fifty-two years. This and similar Irish proposals were harshly received by Chief Secretary Trevelyan and Nationalist susceptibilities were deeply wounded by the intimation that the solution of the problem lay in the direction of wholesale emigration.

Reassured by the good behavior of Parnell, the Conservatives in June resumed their flirtation with the Nationalists. Lord George Hamilton, displaying a remarkable grasp of the intricacies of land purchase, moved an amendment to the purchase clauses of the Act of 1881. Unfolding a scheme

<sup>5</sup> *Annual Register*, 1882, 47. Smith's “notice” was withdrawn on news of the consummation of the Kilmainham pact.

<sup>6</sup> *ibid.*

<sup>7</sup> *ibid.*, 48.

<sup>8</sup> R. B. O'Brien, Vol. I, 343-4, Parnell to O'Shea, April 28, 1882.

which he described as "essentially national" he recommended that the local authorities be empowered to advance the whole of the purchase money to the tenant where the agreement of sale was approved by a central board. The advances would then be repaid in 3 per cent annuities distributed over forty years. By fixing a maximum price for land—twenty-three years' purchase—the peasant's annuity would be less than his rent; and thus the State would be insured against loss. The scheme would be financed through the sale of debentures issued by the local authorities; secured on the local rates and guaranteed by the central government.<sup>9</sup>

Parnell was greatly encouraged by this concrete proposal. "The dream of a peasant proprietorship, so often dispelled by the hard views of political economists, seemed distinctly nearer to possible realization when its central idea was publicly adopted by a spokesman of the alternative governing power."<sup>10</sup> The Liberals were embarrassed for they could hardly oppose openly a motion whose ostensible purpose was to give greater force to a policy which they themselves had inaugurated. Furthermore, it was well known that the radical wing of the party was sympathetic to the view that the ultimate pacification of Ireland depended upon an analogous course. In the event of a division the government would have to support an opposition measure or lose the support of some of its adherents. Gladstone, however, by substituting the word "early" for "immediate" in a motion which stated, "the immediate revision of the purchase clauses of the Irish Land Act of 1881 is necessary in order to give effect to the intention of Parliament contained therein," saved the day. In this form the motion was carried unanimously.<sup>11</sup>

During the succeeding months the Nationalists besieged the government with purchase bills. Parnell, trimming his sails to the Tory breeze, urged that the State be empowered

<sup>9</sup> *Annual Register*, 1883, 67.

<sup>11</sup> *ibid.*, 132-3.

<sup>10</sup> *ibid.*, 132.

to lend the county boards £10,000,000 a year for ten years to assist in transferring the soil from the landlords to the occupiers. In his plea he adopted the Tory argument that under the prevailing system of dual ownership land in Ireland was rapidly ceasing to be a salable commodity. Trevelyan refused to encourage a discussion; assuring the House that the government was engaged in preparing a measure.<sup>12</sup>

Finally, in May 1884, the chief secretary brought in a land purchase bill. Though it did not become law, of significance is the fact that for the first time a government proposed to advance to the tenant the whole of the purchase money. While superior in some respects the bill came to grief on the fundamental questions of terms and security. The prospective purchasers were divided into two classes; those, as under the Act of 1881, who were able to furnish a fourth of the purchase money, and those who would need to borrow the whole amount from the State. Those in the first category were offered the more favorable terms, annuities of  $4\frac{1}{2}$  per cent over forty years. They were thus practically assured that their annuities would be less onerous than their present rents. For those in the latter class there was no such promise; the terms were 5 per cent annuities over thirty-five years. So far as the majority of the Irish peasants were concerned the terms were inadequate and the Irish members refused to support the bill.

The matter of security aroused opposition in other quarters. The State was asked to extend £20,000,000 credit for land purchase purposes. All purchase applications had to receive the sanction of a local board to be composed of delegates chosen from the grand jury and the board of guardians. In case the purchaser defaulted the loss would have to be made good from the county cess. By fastening the responsibility upon the locality public opinion, it was argued, would demand the prompt payment of the annuities. Furthermore, the treasury would be guarded against loss. These provisions

<sup>12</sup> *Annual Register*, 1884, 190-1.



aroused an insuperable opposition. The consensus of opinion seemed to be that the security against loss was inadequate for the local units, already heavily burdened, could not possibly shoulder an additional responsibility. The Irish members pointed out that the landlords, in control of the local boards, would be most reluctant under the circumstances to sanction applications. Wearied in his attempts to meet the objections of so many malcontents, Trevelyan, taking advantage of the sudden closing of the session, dropped the bill. He retired to a less exacting post, the Duchy of Lancastershire.<sup>13</sup>

In the early months of 1885 few would have predicted the downfall of the Liberal régime. "Russia and Ireland," wrote Gladstone confidently as late as May 1, "are the two dangers remaining." But, as Morley remarks, "Ireland never blows over. . . . Many murderers had been hanged; though more remained undetected; conspirators had fled; confidence was restored to public officers; society in all its various grades returned externally to the paths of comparative order; and the dire emergency of three years before had been brought to an apparent close. The gratitude in this country to the viceroy who had achieved this seeming triumph over the forces of disorder was such as is felt to a military commander after a hazardous and successful campaign. The country was once more half-conquered, but nothing was advanced, and the other half of the conquest was not any nearer. The scene was not hopeful. There lay Ireland—squalid, dismal, sullen, dull, expectant, sunk deep in hostile intent. A minority with these misgivings and more felt that the minister's pregnant phrase about the government 'having no moral force behind them' too exactly described a fatal truth."<sup>14</sup>

The Coercion Act, unless renewed, would expire in August. Gladstone revealed how utterly the Cabinet was at sea on the matter when he announced to the House late in May, in a vague way, that it might be necessary to renew coercion in

<sup>13</sup> *ibid.*

<sup>14</sup> Morley, Vol. III, 187.

part. Lord Randolph Churchill, speaking for the opposition, confessed that this was terrible news and that "the Tory Party should be careful beyond measure not to be committed to any act or policy which should unnecessarily wound or injure the feelings of our brothers [*sic*] on the other side of the Channel of St. George."<sup>15</sup> The Conservatives were indeed willing to abandon coercion for the fruits of office and at the time were skilfully negotiating to turn their rivals into the street.

Meanwhile, the Cabinet was weighing the merits of various proposals. The radicals, Chamberlain and Dilke, were determined not only to abandon coercion, but to create a central Irish board with large administrative powers. Lord Spencer insisted upon retaining coercion and offered to sugar-coat it with a generous purchase measure. The radicals countered with their central board and two years of coercion, but were outvoted. On May 20 Gladstone gave notice of a land purchase measure and the radicals, alleging that this course would interfere with their plans for local government, resigned. The prime minister, however, had correctly diagnosed the situation. "Their ground," he wrote, "will be very weak and narrow; for their actual reason of going, if they go, will be the really small question arising from the land purchase bill. I think they will commit a great error if they take this course. It will be straining at the gnat."<sup>16</sup> The radicals recanted and rejoined, finally agreeing to a year of coercion. Meanwhile, the Tory-Nationalist alliance had been completed, and on June 8, by a snap vote on the budget, the vacillating ministry was defeated.

#### *The Ashbourne Act.*

During the short interim before the general election the Tories displayed a great generosity toward their allies. Coer-

<sup>15</sup> Morley, Vol. III, 189.

<sup>16</sup> *idem*, 196-7, Gladstone to Hartington, May 30, 1885.

cion was peremptorily discarded and a small, but significant, land purchase measure passed.

The passage of the Ashbourne Act was not entirely due to motives dictated by political expediency. It was commonly recognized that the purchase clauses of the land acts of 1870 and 1881 were impractical. Indeed, as early as April 1882 a committee of the House of Lords had reported: "There is a concurrence of testimony that no scheme for converting tenants into proprietors which requires tenants to pay down a portion of the purchase money, or to pay a yearly instalment of it greater than the rent is likely to be successful."<sup>17</sup> The passage of time had failed to disprove this verdict. Public opinion in Ireland demanded that land purchase be given a real trial. The Irish Party and the National League had long agitated for it and an increasing body of landlords led by the Marquis of Waterford supported such a proposal.

In July, Lord Ashbourne, now the Irish chancellor, introduced the bill of the new government. In an argument wholly calculated to appeal to the landlords he described the condition of the land market. For the past six years there had been total stagnation; it was impossible to dispose of a sizable piece of property. The landed estates court, formerly turning over £1,500,000 of property a year, could scarcely sell 10 per cent of that amount. The number of estates under receivership had increased alarmingly: in 1878 there were 437; in 1880, 565; in 1882, 816; and in 1884, 1,081.<sup>18</sup>

Since the measure was avowedly experimental Ashbourne asked Parliament to sanction advances to the occupiers to the extent of only £5,000,000. The terms were very reasonable. The occupier whose application was approved by the land commission was permitted to borrow the whole purchase price subject to repayment in 4 per cent annuities distributed over forty-nine years. The land commission was empowered to buy an entire estate where three-fourths of the

<sup>17</sup> *Hansard*, Vol. 299, 1043.

<sup>18</sup> *ibid.*, 1042-3.

tenants agreed to purchase their holdings. In either case the land commission would bear the cost of title search and on the completion of the sale vest the purchaser with an indefeasible title. So far as the occupiers were concerned the two outstanding defects of former purchase laws were remedied: the necessity of providing a portion of the purchase money and the possibility of being required to pay an annuity greater than the rent.

The much-mooted question of security was disposed of satisfactorily. Recognizing that Irish land, which fluctuated in value, was an insufficient security against loss, Ashbourne provided that a sum equivalent to one-fifth of the purchase money must be lodged with the land commission. Since the occupier normally would be unable to furnish such a deposit it would be retained from the landlord's money until the purchaser had paid up an equivalent amount. In case of default the holding would be confiscated and disposed of and the irrecoverable debt deducted from the guarantee fund. To guard against abnormal losses, resulting from crop failure or wholesale repudiation, it was proposed to utilize the Irish church fund surplus (£750,000) as a final security. This proviso, however, had to be withdrawn since it was strongly opposed in the House of Commons by Parnell and Sexton and in the Upper House by Lord Spencer. All felt that it would be unwise to destroy the usefulness of such a large sum in order to safeguard the treasury against losses that were indefinite in amount. It was feared, too, that such a lavish security might make for carelessness on the part of the commissioners and induce an artificial set of land values. Fortunately the guarantee fund was sufficient to salve the consciences of even the most stalwart defenders of the public purse.<sup>10</sup>

The bill passed through Parliament in record time. The English Conservatives accepted it when no protest came

<sup>10</sup> *Hansard*, Vol. 299, 1348; Vol. 300, 1104-5, 1638-42, 1657.

from the Irish landlords and the Liberals, who regarded it not so much as a landlords' relief measure as a step in the creation of an intelligent and independent class of farmers, willingly acquiesced. Parnell was visibly pleased. "Some knowledge may come to us," he told the House, "from the experience derived in its working, which may tempt all parties, the government and the landlords, to go further in the future, and perhaps to arrive at a final solution of this very important and difficult land question in Ireland."<sup>20</sup>

Lord Spencer, the former viceroy, contributed the most judicious estimate of the new policy. Welcoming the law as a sound measure of amelioration, at the same time he dwelt upon the dangers of a too rapid expansion of land purchase. A large body of small proprietors confronted by crop failure might be tempted to repudiate the annuities as an onerous land tax. Furthermore it would not be wise to afford the purchasers greater advantages than the tenants paying judicial rents. A peasant paying a prior rent of £100 could buy his holding for £2,000, twenty years' purchase of the rent. His annual charges, under the terms of the Ashbourne Act and including his taxes, would not exceed £87 10s. Unless the obligations of the two groups could in some way be equalized discontent would certainly arise. He also objected to too lenient terms of purchase for they would bring into existence an improvident group of proprietors and might serve to inflate the value of land. Finally he emphasized the Liberal point of view, that sooner or later local bodies must be erected in Ireland strong enough to bear the responsibility of securing the State against loss in its purchase undertakings. Many of Spencer's observations were well grounded as the future was to show.<sup>21</sup>

#### *Failure of the Tory-Nationalist Entente*

The general election of 1885 was the first since the passage of the third reform bill. All parties were, to an

<sup>20</sup> *ibid.*, Vol. 300, 1103-4.

<sup>21</sup> *ibid.*, 1342-51.



extent, dealing in unknowns. On all sides, too, there was a desire to clean house; Chamberlain longed for freedom from the shackles of Whiggery, and Lord Randolph looked for a smash-up of the Old Gang. Parnell took little stock in either "the Tory democracy" or the "new Liberalism." Four hundred thousand additional votes would be cast in Ireland, and though the Liberals anticipated a growth there Parnell's prediction that the Nationalists would carry 90 of 103 seats was sounder. "With characteristic frigidity, precision and confidence" he began to plan in the expectation of holding the balance between the parties. "You have brought the question of Irish legislative independence to the point of solution," he told his countrymen in August. "It is only a question as to how much self-government they will be able to cheat us out of."<sup>22</sup>

The Conservatives, determined to retain Nationalist support, had promised, according to Parnell, to give Ireland "a statutory legislature with a right to protect her own industries, and that this would have been coupled with the settlement of the Irish land question."<sup>23</sup> Under the circumstances he was willing to listen to them, though in his heart he felt that Gladstone alone could do more than any. But the Liberals steadfastly refused to make pledges. Gladstone in a Midlothian address on November 9 appealed for "a party totally independent of the Irish vote."<sup>24</sup> Parnell, therefore, against the advice of Davitt and Duffy, instructed the Irish in England to support Tory candidates. Two things influenced Parnell; the uprightness and sincerity of Lord Carnarvon, the Tory intermediary, and the supremacy of the Conservative party in the House of Lords.

The election of 1885 was a victory for Parnell. The Liberals with 333 seats and the Tories with 251 left the Nationalists with the balance of power. The Liberals were

<sup>22</sup> R. B. O'Brien, Vol. II, 97, 98.

<sup>24</sup> Morley, Vol. III, 238.

<sup>23</sup> O'Hara, 260.

turned out of Ireland, bag and baggage; while the Nationalists won 86 of the 89 seats which they contested. Even in Ulster, a Tory stronghold, the Nationalists captured 18 seats to 17 for the Conservatives. Ireland had declared overwhelmingly for Home Rule. Parnell had reached the zenith of his power.

Events moved swiftly. The Tories remained in office, at the mercy of the Nationalists. Parnell awaited their offer but it was not forthcoming. The Ulster influence and the Irish gentry would have none of it. Carnarvon, the lord lieutenant, his plans for an Irish settlement discredited by his party, resigned.<sup>25</sup> On January 26 the Conservatives gave notice of a coercion bill. The die was cast. The following day the government was overthrown on Jesse Colling's amendment—"three acres and a cow." The majority was composed of 257 Liberals and 74 Nationalists. Ominously 76 Liberals were absent, while Hartington, Goschen and others supported their opponents.

### *Home Rule and the Land Question*

The land question during the Home Rule struggle was a pawn in a great game. It served many purposes: Gladstone regarded its solution as fundamental; Chamberlain found in it a glorious pretext for abandoning Home Rule; the Tories invoked it as a fairer palliative than coercion; and the Irish washed their hands of it. Like the question of "inclusion and exclusion" it performed lip-service for all but failed to advance its own cause.

On February 1, 1886, Gladstone at the ripe age of seventy-seven took office for the third time. Only the hope of settling the Irish question once for all had induced him to take charge of the government. His first step, the formation of a ministry pledged to carry out his intention, proved difficult. Hartington and the Whigs refused to join, as did Goschen,

<sup>25</sup> On the Parnell-Carnarvon negotiations see Morley, Vol. III, 228-30.

Bright and Derby. Trevelyan and Chamberlain accepted office but were soon to desert. The faithful upon whom the brunt of the battle bore dwindled to a mere handful: Morley, the chief secretary, Spencer, Harcourt and Granville.

As early as the September preceding Gladstone had been engaged in formulating a Home Rule measure. The land problem came to the fore immediately. "A question arises and forms, I think," he wrote Childers, "the most difficult part of the whole subject, whether some defensive provisions for the owners of land and property should not be considered."<sup>26</sup> He approved the conditions which to Salisbury seemed absolutely vital; namely "the unity of the Empire and an honorable regard to the position of the 'minority,' i.e. the landlords."<sup>27</sup> Indeed while the Conservatives were in office Gladstone had offered to cooperate in framing a measure based upon those premises, but Balfour had replied in a tone of courteous skepticism.<sup>28</sup> In January John Morley declared publicly in favor of incorporating an agrarian settlement in the forthcoming Home Rule bill. Just as a Liberal ministry had legislated to prevent the landlords from confiscating the property of the tenants, so now it should legislate to prevent the tenants from confiscating the property of the landlords. If this were done it would be possible to exclude the Irish from Westminster altogether.<sup>29</sup> At that time both Hartington and Chamberlain approved a final adjustment of the land question, but fought shy of the giant scheme of purchase that Morley was advocating.

The relation of land to self-government was commented upon at length in the press. The most searching treatment of the question appeared in *The Statist*, January 9, and was attributed to the pen of Sir Robert Giffen, a noted economist.

<sup>26</sup> Morley, Vol. III, 236, Gladstone to Childers, September 28, 1885.

<sup>27</sup> *idem*, 241, Gladstone to Hartington, November 10, 1885.

<sup>28</sup> *idem*, 259.

<sup>29</sup> Speech at Chelmsford, January 7, 1886.

Unless the landlords were granted safeguards for their property, he wrote, it was improbable that a Home Rule measure would meet with approval in the House of Lords. It was advisable, therefore, to dispose of them in the beginning. Giffen calculated the income from Irish rents at £8,000,000, which if capitalized would come to £160,000,000. The government borrowing money at 3 per cent could buy out the landlords and sell to the occupiers on long-term annuities. If the annuities were fixed at approximately two-thirds of the existing rents there would be little danger of default. The diminution in the cost of the Irish administration would be ample to cover losses incurred in financing the transaction. Losses resulting from widespread repudiation could be charged upon the localities. The dangers consequent upon crop failure could be anticipated by empowering the local authorities, who would act as annuity collectors for the Imperial treasury, to vary the amount of the instalments in accordance with the rise and fall of agricultural prices. Thus the responsibility would be placed in large measure upon the shoulders of the Irish people.<sup>30</sup>

Chamberlain in the *Fortnightly Review* of February 17 over the signature, "A Radical," suggested that Parnell should seriously consider the adoption of a scheme on the order of Giffen's whereby Irish land might be "municipalized." Such a prospect "would not be lightly rejected by 600,000 tenants." For the sake of security, however, it would be better if the price paid to landlords were something less than twenty years' purchase. This exposition was regarded as the reply of the radicals to the views of Trevelyan who was vehemently opposed to buying out the Irish landlords "from the slender purses of the hard-worked people who supply the exchequer of the United Kingdom."<sup>31</sup>

Gladstone, meanwhile, gave no inkling of his policy. To the electors of Midlothian he announced the intention of

<sup>30</sup> *Annual Register*, 1886, 4, 5.

<sup>31</sup> *ibid.*, 7, 8.

the government to propose remedies for the Irish question going to the source and seat of the mischief. On February 18, the opening of Parliament, he promised that his plan would be divulged before the Easter recess. The aged premier was working under a terrific strain; the difficulty of completing the ministry, the harrying debates in the Cabinet, the constant heckling in Parliament, the outburst of social disorder in Ireland and the impatience of the country—all this and more was exhausting his strength.

On March 3, Lord Randolph stirred the electorate by inviting all dissentient Liberals to join a new political party, "the Unionists, a party which might combine all that is best of the Tory, the Whig and the Liberal."<sup>32</sup> Lord Salisbury, suspecting that the ministry were preparing to offer the landlords bountiful concessions, appealed to the taxpayers. "Do you imagine," he asked, "that the merchants and bankers and such manufacturers as are there would stay long, after the country gentlemen had gone? I deeply fear that you would be left with a vast uninstructed peasantry, governed by a monarch that is none too wise. There is another matter I have to notice. I do not think that the much-enduring animal, the British taxpayer, is altogether to be left out of account. If you adopt Home Rule . . . if you once relinquish your power in Ireland—you may depend upon it, whatever else Ireland does, Ireland will not pay. You may advance millions upon millions—you may take the most sacred promises you please, but if you once relinquish the solid hold of power you may write off these investments as though they had been subscribed to the maintenance of the Mexican Republic."<sup>33</sup>

The hue and cry was taken up on all sides. In truth, conditions in Ireland were not encouraging. The country was seething with disorder and intimidation and boycotting were rampant. During 1885 the branches of the National

<sup>32</sup> *Annual Register*, 1886, 58-9. At Manchester.

<sup>33</sup> *ibid.*, 59, 60. London, March 3.



League had increased from 600 to 1,200. The peasants were demanding large reductions in their rents. This situation, Parnell explained, was not due to political causes, but to a decline in agricultural prices such as Ireland had not experienced for thirty years. Under the circumstances it was impossible for the peasants to pay their rents. The landlords thought otherwise; they accused the tenants of acting in bad faith, of violating the "final settlement" of 1881, and appealed to the courts to uphold their rights. The peasants, in defense, had resorted to illegal methods. Friends of the administration argued that there would be no social peace in Ireland until the land was transferred to the occupiers, but its opponents would have none of it.

The articles of Sir James Caird, an economist, in the *London Times* attracted much attention. Arguing that in the majority of cases Irish tenancies were worthless, he contended that from the point of view of national finance a large measure of land purchase was distinctly undesirable. Five-sixths of the tenancies yielded an average rent of £6, while the remainder, about 100,000, averaged over £50. Five-sixths of the tenantry of the whole country paid but a minor fraction of the total rental. "If," wrote Caird, "the present prices of agricultural produce continue, I should fear that from the land held by the larger body of poor farmers in Ireland, any economical rent for the present has disappeared. A purchase of it at any price would therefore be certain loss. How many years' purchase would any sane capitalist give for a nominal rental of £3,500,000 to be collected from 500,000 holdings of poor land from tenants averaging £6 each? If a purchase of the poor land must result in certain loss, there is on the other hand no need to buy the good land. The strong farmer sent us over in 1882 cattle and sheep valued at £16,500,000. They are the chief depositors in the Irish banks and they and their landlords are quite able to take care of themselves. But a purchase even of the

good land could not be made at present without great risk of loss. There can be no adequate security at present given by the land of Ireland for such a stupendous advance by the British people and I trust that Parliament may guard the State from being committed to an engagement which could only end in loss and possibly disaster.”<sup>34</sup> Caird, however, did not object to a gradual extension of the purchase policy; far from leading to the disintegration of society, it would provide a necessary safety-valve. Under such circumstances, we are told, the Protestant clergy would remain in the country and “continue the moderating influence which education and example provide.” “There is no need of any heroic remedy,” concluded Caird, “no occasion for the risk of a vast addition to the national debt. We have simply to act on the law as it at present stands, enlarging its scope from time to time as occasion demands and as other public interests of the country admit.”<sup>35</sup>

After weeks of discussion and consideration Gladstone laid before the Cabinet his Home Rule measure. It included a proposal to buy out the landlords and to transfer the land to the peasants. The viewpoint, which Morley and Spencer had consistently urged, that it would be unfair to burden a new and untried legislature with a question so charged with class friction, had been accepted by the prime minister. The purchase scheme was not popular with the Cabinet. Chamberlain and Trevelyan wished to resign at once but the evil hour was postponed. On March 26 Gladstone made it clear that he could not abandon a portion of the scheme which he considered vital and accepted the resignations of the dissenting ministers. The press, restive during the interregnum of silence, burst forth in fury. The leading Liberal organs fiercely denounced the purchase project as a scourge upon the taxpayers. The provincial press, however, was calmer and kept faith with the government. Gladstone, announcing that

<sup>34</sup> *Times*, March 20, 1886.

<sup>35</sup> *ibid.*, March 29.

Home Rule could not possibly pass in the House of Lords if purchase were dropped, resolutely maintained his course.

The Government of Ireland Bill was introduced on April 8, 1886. It did not include the provisions relating to land purchase. They were embodied in a separate bill introduced on the sixteenth. Parliamentary tacticians regarded the separation of the measure into two as a hesitancy to deal with the land question at all. Others detected in the move the exercise of rare finesse—to consolidate public opinion upon the least objectionable phase of the reform and to confuse the enemies of the measure by withholding the portion which they hoped to capitalize. Possibly none of these prognostications had meaning. Gladstone may well have come to the conclusion that an attempt to expound the complete measure in the course of an evening would not only tax his strength but exhaust the patience of the House.

The land purchase bill, then, was read a first time on April 16 but made no further progress. Despite its failure it was a strong plea in favor of the establishment of a peasant proprietary in Ireland. The determining element of Irish society was agrarian and unless the keystone were properly adjusted, chaos would continue. It would be an ill-shapen kindness to the Irish people to hand over to its legislature, as an initial task, the business of dealing with the land question. It would be like giving over to Ireland the worst part of her feuds and confronting her with the necessity of efforts which would possibly be hopeless, or which at any rate would be attended with the most fearful risks.<sup>36</sup> The intervention was a necessity and an obligation of honor. A necessity in order to guard a minority—the landlords; an obligation of honor because the land code had been moulded by the Imperial Parliament.

The scheme itself was painted on a large canvas and the strokes were bold. There would be no compulsion; on the

<sup>36</sup> Gladstone, *Speeches on the Irish Question in 1886*, 73-108.

contrary the inducements must be generous enough to tempt the gentry to remain in Ireland. Gladstone expressed the hope, "that many a nobleman and many a gentleman in Ireland will long continue to inhabit his demesne in a new and happier state of things. Yes, I believe it may be possible that even the Irish Nationalists may desire that those marked out by leisure, wealth and station for the attention to public duties and for the exercise of influence, may become, in no small degree, the national and effective and safe leaders of the people."<sup>37</sup>

Under the guidance of a State authority whole estates rather than individual holdings would be purchased. In most cases the price would come to twenty years' purchase of the rents. The holdings would be resold to their occupiers subject to annuities of 4 per cent running through forty-nine years. At the end of that period the occupier would be vested with absolute ownership.

To arrange for the transfer of all the holdings in Ireland £113,000,000 would be necessary. Owing, however, to apprehensions which recently had been aroused he would not insist upon the outside limits of the transaction, but would ask for an amount sufficient to secure an ample progress of the measure—£50,000,000. This capital sum could be raised within three years by the flotation of bonds. If the public credit were not impaired it would be the duty of Parliament to take steps to complete the settlement.

The storm cone was the question of security for the State advances. The public was unable to comprehend an arrangement which though complicated seems fundamentally sound. A hostile press, trading largely upon ignorance, succeeded in transforming a financial technicality into a powerful weapon against Home Rule. "Vivid pictures were drawn," wrote Morley, "of a train of railway trucks two miles long, loaded with millions of bright sovereigns, all travelling from

<sup>37</sup> Gladstone, *Speeches on the Irish Question in 1886*, 90.

the pocket of the British son of toil to the pocket of the idle Irish landlord.”<sup>38</sup> Gladstone provided that all Irish revenues, including the annuities, must pass through the hands of an Imperial official, the receiver-general. After deducting all sums due the exchequer, this officer would turn the residue over to the Irish government. The annuities would amount in all to £2,500,000. Only four-fifths would be required by the treasury—the interest and sinking on £50,000,000. But by the device of an Imperial authority not only the annuities but all Irish revenues would be subject to seizure in case of difficulty. Nor would this security arrangement endanger the finances of the Irish government. Under normal circumstances there would be a surplus of £800,000; the equivalent of a surplus of £10,000,000 on a British budget.

Though the Sale and Purchase of Land (Ireland) Bill did not, owing to the defeat of the government bill, progress beyond the first reading, its influence upon the Home Rule struggle was marked. The question of the “exclusion” of Irish representatives, contrary to expectation, gave rise to a storm of opposition particularly among the Catholic hierarchy of England and the Scotch, who were acting from a sense of political self-preservation. But the land question came as a godsend to the Liberals who feared Home Rule as a danger to the unity of the Empire and the supremacy of Parliament. Even before the provisions of the land bill were known there existed the opinion, carefully nurtured, that the treasury would be raided to secure the adherence of the landlords to Home Rule. After Chamberlain and Trevelyan resigned this argument gained weight and was more outspoken. With the reading of the bill the din became stifling.

What a glorious pretext for opposing Home Rule was afforded those Liberals who were torn between party loyalty and loyalty to the Union! How comfortably could one salve

<sup>38</sup> Morley, Vol. III, 325.



one's conscience by rushing to the defense of the taxpayer! Chamberlain emerged as the arch-disciple of the new creed and preached its tenets far and wide. "Workingmen of England and Scotland," he cried, "where is your remedy? You will be Irish landlords, you will have to evict the tenants, you will have to collect your rents at the point of the bayonet and I refuse to be a party to such contingencies. . . . I think the bill a bad one. I would sooner go out of politics altogether than give my vote to pledge the capital of the country—aye—and the future earnings of every man and woman in the United Kingdom—in order to modify the opposition of a small class of Irish proprietors to a scheme, which if it remains in its present form, will, I believe, infallibly lead to the separation of Ireland from England. I object in this case to the risk we are asked to incur. I object also to the object for which we are asked to incur that risk."<sup>39</sup> Armed with such a substantial *raison d'être* the dissentients were enabled to come out into the open. "The Purchase Bill," wrote Morley, "proved from the first to be an almost intolerable dose."<sup>40</sup> Beyond Gladstone's immediate circle it was generally repudiated. Strange it was that this scheme which had given rise to so much discussion did not find favor within groups otherwise keenly interested in social reforms.

Gladstone was sorely disappointed. Not only did he expect the purchase scheme to win acquiescence for his whole policy in the House of Lords, but he saw in it the possibility of healing an old, old wound. Close upon the heels of hostile speeches and editorials came the intelligence that the House of Lords would not accept it. In his Midlothian address of May 1 he courageously spoke his mind. "I leave the Land Purchase Bill to stand on the declarations we have already made; adding only an expression of the regret with which I find that, while the sands are running low in the hour-glass,

<sup>39</sup> *Annual Register*, 1886, 159. At Birmingham, April 26.

<sup>40</sup> Morley, Vol. III, 325.

the Irish landlords have as yet given no indication of a desire to accept a proposal framed in a spirit of the utmost allowable regard to their apprehensions and their interests.”<sup>41</sup>

Land purchase was not abandoned immediately. The Liberal leaders still hoped by the exercise of strict party discipline and local influence to reduce the desertions of Chamberlain and Trevelyan to the status of personal withdrawals. During the Easter recess Morley and Spencer labored bravely but in vain to stem the tide of disapproval. Gladstone turned bitterly upon his former partisans; chiding Hartington for describing the measure in public as a bill “of which nobody seems to approve”; excoriating Goschen who “finding that he is totally out of sympathy with the country upon every possible point of politics except this, lays his hand on the Land Purchase Bill and tears it to pieces in order to find one point of contact at least with the feelings of the country.”<sup>42</sup> His supreme denunciation was reserved for Chamberlain who had resigned on the ground that he was unable to accept “such a serious risk of ultimate loss” to the taxpayers. He condemned Chamberlain’s desertion on two counts: first, because he had commended the Giffen scheme which called for £160,000,000 and secondly, because while still in the Cabinet he had submitted a gigantic scheme of land purchase. To this theme Gladstone returned again and again. “I think I can venture to assure you,” he told an audience after the Home Rule Bill had been defeated, “that if you have the opportunity of becoming acquainted with that plan, which was not a mere suggestion, but a plan formally drawn out, you will think that it stands in curious contrast with the latest views of Mr. Chamberlain on Land Purchase.”<sup>43</sup>

The immediate situation, however, grew steadily worse. Party secessions continued at an alarming rate. Early in May

<sup>41</sup> Gladstone, *Speeches on the Irish Question*, 173.

<sup>42</sup> *ibid.*, 266.

<sup>43</sup> *ibid.*, 266-7. At Manchester, June 25.

Chamberlain announced his intention of moving the rejection of the Purchase Bill. At a meeting of the dissentients summoned by Hartington it was revealed that fully a third of the party members were opposed to the Home Rule measures. Under the circumstances Gladstone decided to yield all but the principle of Home Rule. At a meeting of party leaders in the Foreign Office on May 27 he announced that a vote for the government bill would not bind a member to support the Purchase Bill. Simultaneously the prime minister, by means of public correspondence, made it clear that the door was open to all who had been alienated through fear of the consequences of the land bill.

Thereafter all references to the Land Purchase Bill were "somewhat ostentatiously ignored" by Gladstone and his supporters, except for Morley who until the end grappled with all attacks upon the measure. The ministerialists worked feverishly to carry the second reading of the government bill. Their efforts, however, were in vain. At a little after 1 a.m. on June 8 the bill was beaten by a vote of 343 to 313. Ninety-three Liberals had voted against it. The shortest Parliament of the Queen's reign was dissolved on June 26 and in the election which followed the victory was won by the opponents of Home Rule.

## CHAPTER X

### THE ACCEPTANCE OF A PRINCIPLE 1887-1896

#### *The State of Ireland (1886)*

WHEN the Conservatives resumed office in the summer of 1886 they were confronted with a serious economic situation in Ireland. This was surprising for it was commonly believed that the Act of 1881 had conferred a great boon upon the peasantry. Indeed there existed a galaxy of statistics that seemed to warrant such a conclusion; the current rumbles of discontent had been ignored or were attributed to political causes. Roughly a third of the tenants had had their rents judicially fixed, with an average reduction of 18.2 per cent.<sup>1</sup> Rents valued at £3,200,000 had shrunk to £2,600,000 in the process. In addition the Purchase Act of 1885 was working remarkably well despite the fact that in the great majority of cases the landlord was obliged to furnish the deposit money. Up to January 1, 1887, over 51,000 holdings involving nearly £2,500,000 in advances had been purchased by the tenants. Hundreds of transactions were in the course of completion.<sup>2</sup>

There were conditions, however, sufficient to offset the advantages arising from dual ownership and land purchase. The years 1885 and 1886 witnessed a decline in agricultural prices far below the average of the preceding forty years.<sup>3</sup> This phenomenon was not due to overproduction for since the return to normalcy there had been no appreciable increase in output. In 1881 the total crop was valued at £46,000,000,

<sup>1</sup> *Cowper Commission Report*, Sess. Papers, 1887, Vol. 26, 5. Roughly 150,000 tenants had not yet applied.

<sup>2</sup> *ibid.*, 7.

<sup>3</sup> *ibid.*, 953, 955, 969-7.

while five years later it was worth £32,000,000, a decline of 30 per cent. Similarly the value of livestock, cattle and sheep, revealed a decline of 18 per cent. The Cowper commission, appointed in 1886, after a study of the statistics arrived at the conclusion that there was "an average fall in the last two years in the value of the agricultural capital of the occupiers of the land in Ireland amounting to 18½ per cent; a loss which goes far to explain the present depressed condition of Irish agricultural prosperity."<sup>4</sup>

The causes for the decline were complex. Foreign competition, particularly that of American grain and meat products, was undoubtedly a large factor. During the year ending in June 1884, for instance, Great Britain imported from the United States fully a third of her cattle and beef products, thus destroying Ireland's position of a monopolist.<sup>5</sup> Other factors contributed to the crisis: increasing production costs, unfavorable seasons characterized by low temperatures and abnormal rainfall, and the failure of the credit market to revive after the depression of 1879.<sup>6</sup> The English farmer, similarly beset, resorted to the use of agricultural machinery; but the Irish holding was too small to warrant such an investment of capital. Unfortunately, too, the employment of machinery in Great Britain deprived the Irish laborer of a sorely-needed source of income. In 1880 23,000 Irish workers had assisted with the English harvest, while five years later only 12,000 were so employed. The average seasonal wage fell from £15 to £10.<sup>7</sup>

The inhabitants of the west of Ireland suffered most severely. Here were situated the "congested" areas, "where the land is of inferior quality, not good enough for pasturage, and not naturally adapted for profitable agriculture, occupied by a large number of poor people holding at small rents, and where each separate holding is not of itself capable

<sup>4</sup> *Cowper Commission Report*, 9.

<sup>6</sup> *ibid.*, 8.

<sup>5</sup> *ibid.*, 953, 7389.

<sup>7</sup> *ibid.*, 189-93.



of supporting the holder and a family.”<sup>8</sup> About the same time the slump in migrational labor occurred, the demand for kelp almost ceased owing to the discovery of vast deposits of iodine and potassium compounds in Germany. Long before, fishing had been abandoned for the kelp industry and without capital there was little hope of displacing the French who controlled the coastwise fisheries.<sup>9</sup>

Some landlords recognizing the inability of their tenants to pay a full rent granted abatements; but others stood strictly by the “final settlement of 1881.” The mere fact that since the passage of that act 22,000 notices to quit had been issued is sufficient to reveal the temper of the landlords. The tenants, since no legal redress existed, resorted to illegal combinations.<sup>10</sup> November 1886 saw the birth of the Plan of Campaign. Issued in the form of a supplement to *United Ireland*, the Nationalist weekly edited by William O’Brien, an elaborate scheme for resisting the enforcement of legal obligations was set forth. Since the payment of rent was obviously impossible and since nothing was to be expected from the landlords—witness the rejection of Parnell’s relief proposals in Parliament—; “a fight during the coming winter is therefore inevitable, and it behooves the Irish tenantry to fight with a skill begotten of experience.”<sup>11</sup> The tenants on all rack-rented estates were advised to organize and to agree upon a reasonable rent. This their committee should offer the landlord on the next gale day. If the tender were refused the money would remain in the hands of the committee, to be used for the purpose of bringing the landlord to terms. The “estates fund, if properly utilized,” stated the plan, “will reduce to reason any landlord in Ireland. All tenants deprived of their holdings through sale or ejectment would be supported from the fund, and if it were not sufficient

<sup>8</sup> *ibid.*, 11.

<sup>10</sup> *ibid.*, 8, 206, 207.

<sup>9</sup> *ibid.*, 13, 353.

<sup>11</sup> *ibid.*, 1021-3. The Plan of Campaign is quoted in full.

it became the duty of the National League to replenish it as long as the struggle lasted." The tenants were then instructed how to proceed in every emergency. Strict injunctions were issued advising the tenantry to hold no communication with the landlord except in the presence of the whole body and to accept no settlement that was not granted to every tenant upon the estate. The penalty for disloyalty, as in 1879, was to suffer boycott. As *United Ireland* enjoyed a circulation of 100,000 and the National League was represented in every parish outside Ulster, little time was required to organize a first-class resistance. The seed had fallen upon fertile soil.

### *The Cowper Commission Report*

Lord Salisbury's views with regard to Ireland were well known. "What she wants," he had announced recklessly during the Home Rule struggle, "is government—government that does not flinch, that does not vary, government that she cannot hope to beat down by agitations at Westminster; government that does not alter its resolutions or its temperature to the party changes that take place at Westminster. . . . Apply that recipe honestly, consistently and resolutely for twenty years, and at the end of that time you will find Ireland fit to accept any gifts in the way of local government or the repeal of coercion laws that you may wish to give her."<sup>12</sup> Such was the alternative to Home Rule.

In August 1886 Sir Michael Hicks-Beach, after a lapse of some years, resumed the chief secretaryship with Cabinet rank. Carnarvon was quietly dropped and Lord Londonderry supplanted him as viceroy. Coercion for the time being was not resorted to. Instead Sir Redvers-Buller, a distinguished soldier, was dispatched to the disturbed counties of Kerry and Clare with orders to round up moonlighters—"hardly more sensible," wrote Morley, "than it would be to send a squadron of lifeguards to catch pickpockets in a London

<sup>12</sup> *Annual Register*, 1886, 181-2.

slum.”<sup>13</sup> Then followed the appointment of commissions of inquiry; one to examine into the resources of the country and a second to investigate the relationship of landlord and tenant.

The Cowper commission, charged with the latter task, submitted an able report in February 1887. The existing conditions were frankly recognized; the decline in prices, the inability of the tenants to meet their rents and the presence of combinations that made the collection of rent “difficult and sometimes impossible.” Even the working of the land courts, it was admitted, had been seriously hampered by the Plan of Campaign. “The decision of the court is absolutely binding upon the landlord, but public opinion in many parts of the country does not recognize the binding effect of such a decision on the tenant who, if dissatisfied, may join in a combination for the purpose of obtaining a still further reduction.” The purchase act of 1885 was eminently successful, particularly in Ulster where the agreements of sale were almost equal in number to those in the rest of the country. The knowledge that the London Companies, in possession of large estates since the time of James I, had come to terms with the tenants was most gratifying. Curiously enough, however, there was dissatisfaction among the Ulster tenants who complained that because of the very disorders in which they had refused to participate, the tenants elsewhere were able to obtain better terms from their landlords. Indeed in many counties land had fallen to eighteen years’ purchase of the rent and the tenants had been advised by their leaders to hold out for better terms. On the whole the peasants favored the principle of purchase except for the few who fought shy because “of the readiness of their landlords to give them time, and treat them considerately in adverse seasons when the half-yearly instalments might be difficult to pay.”<sup>14</sup>

<sup>13</sup> Morley, Vol. III, 362.

<sup>14</sup> *Cowper Commission Report*, 8-9.

The commission made a number of wise recommendations, many of which furnish the clue to subsequent legislation. The maintenance of law in the interest of all classes of society was its first consideration. "In the absence of that security which ought to be enjoyed in every civilized community, capital is discouraged, enterprise and industry are checked and it is impossible that any country can thrive or any healing measures be devised which will add much to its prosperity."<sup>15</sup> While reluctant to see disturbed what was regarded as a "final settlement," and yet rather than permit the tenants to fall hopelessly in debt or to sell their working stock to pay full rents, the commission drastically recommended "that the term of revision should be shortened from fifteen to five years." Furthermore it proposed that judicial rents should be based henceforth, not upon a revaluation of the holding, but upon the index of agricultural prices. "The productive quality of the land having been already defined on the first inquiry, the rent would naturally have relation to the average prices of some preceding years. If five years are adopted as the future term for revision, the average prices of certain articles of production, during the last five years, should be compared with the average prices of the same articles for the five years preceding, and a percentage reduction or addition, in accordance with the change of price, be made in the rent for the ensuing term."<sup>16</sup> In the event that prices did not return to the level of the years 1881-1884 the commissioners were willing to see a readjustment of all first-term rents on the basis of the prevailing level. The admission of leaseholders and other changes in the Act of 1881 were recommended.

In addition all favored continuing the land purchase experiment. "The Irish people are naturally hard working, honest and deeply attached to their native land, and all these causes will tend to make them, when invested with owner-

<sup>15</sup> *Cowper Commission Report*, 18.

<sup>16</sup> *ibid.*, 13.

ship, good citizens and loyal subjects. . . . We, therefore, strongly recommend that, without resorting to compulsion, the government should continue their efforts to encourage the establishment in Ireland of the occupiers as owners of the soil.”<sup>17</sup> Little support, however, was given the idea of introducing local authorities as the guarantors of the State advances; nor indeed of tampering with any of the financial clauses of the Act of 1885.

The commissioners were somewhat perplexed by the problem suggested by the Congested Districts of the West. Gladstone in his abortive bill of the year before had proposed a drastic remedy; he would compel the landlords to sell to the State and empower the State to act as landlord until the individual was able to purchase his holding. But the commissioners thought it would be rash to create peasant proprietorships in regions where the holdings were unlikely to provide a livelihood for their tenants. In the immediate crisis they could only suggest the employment of funds to assist in migration and emigration. They were enamoured with the possibility of removing whole communities, led by priest and schoolmaster, to the fertile prairies of the Canadian Northwest. For the future they urged that provision be made for giving the youth of such districts a technical training. The commissioners saw in the systematic production of dairy products, especially butter, the possibility of reviving rural industry. Great Britain imported annually £12,000,000 worth of butter and butterine. If central creameries were established throughout Ireland the surplus milk could be utilized in the manufacture of a brand of butter, which though more expensive, would be of a quality attractive to the British market.<sup>18</sup>

### *The Plan of Campaign*

Sir Michael Hicks-Beach had a stormy time of it as chief secretary. In the beginning, however, there was an attempt

<sup>17</sup> *ibid.*, 10.

<sup>18</sup> *ibid.*, 16, 461, 467, 474, 476.



to win the good-will of the people but it ended tragically. Redvers-Buller soon discovered the truth of the situation. "You have got a very ignorant poor people and the law should look after them, instead of which it has only looked after the rich; that at least appears to me to be the case." In his estimation the rents were too high and under the circumstances it was the duty of the government in some way to restrain the landlords from evicting rashly. He believed that a judicial authority should be empowered to act where necessary. Hicks-Beach was impressed and hit upon a policy of "pressure within the law."<sup>19</sup> Where irreconcilable differences had arisen between tenants and landlord the chief secretary earnestly endeavored through "councils of conciliation" to bring about a settlement of the difficulty. But his efforts represented a new departure and were resented by the stalwarts. Finally Chief Justice Palles proceeded "to read a solemn lecture" to the executive from the bench. The right of the landlord to evict was strictly upheld; it was the duty of the government to protect and aid the process-server; and failure to do so would render the administration liable to prosecution. To Parliament alone was reserved the right of tampering in the relations of landlord and tenant.<sup>20</sup> This rebuke was welcomed by the defenders of the rights of property and the authority of the executive suffered a diminution.

Meanwhile the Plan of Campaign had been put into operation on a number of estates. William O'Brien, John Dillon and Tim Healy, acting for the National League, succeeded in keeping the country in an uproar. Parnell played little part in the proceedings at the start for he was seriously ill. Where the landlords showed a willingness to make "human reductions" the terms were met by the tenants, but where "pound of flesh" tactics were used they stoutly resisted.

<sup>19</sup> H. Paul, *A History of Modern England*, Vol. V, 82-3.

<sup>20</sup> *Annual Register*, 1886, 310, 311, 316.

Against these combinations Hicks-Beach could make no headway and resigned office early in 1887.

The new incumbent was Arthur J. Balfour, the nephew of Lord Salisbury. The Irish hailed the appointment with ill-concealed glee for they looked upon Balfour as "a silk-skinned sybarite whose rest a crumpled rose-leaf would disturb." Indeed the nomination caused no little surprise for Balfour was known to be of frail health. "An Irish Secretary," stated the *Pall Mall Gazette*, "should be as tough as catgut and as hard as nails. Mr. Balfour is the very antithesis of a pachyderm. Lord Salisbury may be anxious to avoid the charges of nepotism; but this is nepotism the other way about—nepotism not of the patronizing but of the murderous order. To offer Mr. Balfour the Irish office is like the presentation of a silken bowstring to the doomed victim of the Caliph." This forecast, however, was rudely shattered and a few months later the *Gazette* was equally certain that Mr. Balfour would soon be leading his party in the House.<sup>21</sup>

"Cromwell failed," said Balfour on taking office, "because he relied solely on repressive measures. This mistake I shall not make. I shall be as relentless as Cromwell in enforcing obedience to the law, but at the same time I shall be as radical as any reformer in redressing grievances and especially in removing any cause of complaint in regard to the land. Hitherto the English government has stood first on one leg and then upon the other. They have been all for repression or all for reform. I am for both; repression stern as Cromwell, reform as thorough as Mr. Parnell or any one else can desire."<sup>22</sup> Balfour found it difficult to understand why men should battle so fiercely over little strips of land in Ireland while across the sea there were unlimited and unclaimed tracts of the richest soil. "I suppose it is an unpopular thing to say, but I will not conceal my personal opinion that emi-

<sup>21</sup> E. T. Raymond, *A Life of Arthur James Balfour*, 47.

<sup>22</sup> *ibid.*, 51.

gration must play an important part in relieving the Congested Districts of Ireland. The policy of the future must be either migration or emigration. I do not think that migration will mend matters very much, for these poor people must eventually find homes in the New World, in Australia, or in Africa."<sup>23</sup> He had less sympathy for Home Rule, which in his estimation was a silly sort of business, conducted by men for selfish or fanatical reasons.

Both the Cowper Commission Report and the Plan of Campaign pointed to a state of disorder and an unhealthy economic situation in Ireland. Obviously, the former must be controlled and the latter remedied. Simultaneously with Balfour's advent to office a coercion bill was introduced—a first step toward "resolute government." This course was defended on the ground that the law was being openly defied and, furthermore, because Irish juries refused to convict regardless of the evidence.<sup>24</sup> Though not going to the extreme of suspending habeas corpus the bill contained stringent provisions. The lord lieutenant was empowered to declare any association illegal; the resident magistrates, "many of whom were quite ignorant of the law beyond what might be gleaned from the *Justice's Manual*," were given jurisdiction in conspiracy cases for which in England a jury was required; trials could be removed to England in case of serious crimes and finally the viceroy was enabled to enforce these conditions in any district "proclaimed" by him. The bill was regarded as a strong dose—it could be applied at the discretion of a single individual and unlike former measures it was not limited in duration, but permanent. With Liberal-Unionist support and by the use of cloture the bill was pushed through the House, though for the first time an official opposition voted unanimously against an Irish coercion measure.<sup>25</sup>

<sup>23</sup> Raymond, 77.

<sup>24</sup> A flagrant instance was the disagreement of the jury at Woodford, Galway, in the case of Dillon and five others.

<sup>25</sup> Raymond, 52.

The Crimes Act was applied vigorously; in August the National League was outlawed, two hundred of its branches were suppressed and in the six counties of Cork, Kerry, Limerick, Clare, Wexford and Galway its meetings were banned. The civil service in Dublin, the resident magistrates and the Royal Irish Constabulary were instructed in the necessity of executing the law at all costs. Wholesale arrests were made and convictions in agrarian cases alone rose to 2,800. "Of these," wrote Morley, "rather over one-half were cases where in England the rights of the prisoner would have been guarded by a jury."<sup>26</sup> Balfour was no respecter of persons for at one time or another he imprisoned twenty-two Irish members of Parliament. The police were defended upon every occasion—witness the "Mitchelstown murders" of September 1887—and the chief secretary was severely criticized.<sup>27</sup> "Every act of Irish officials was to be defended. No constable could be capable of excess. No magistrate could err. No prison rule was over harsh. Every severity technically in order must be politic."<sup>28</sup> Such was the key to the new policy.

Under such rigorous treatment the Plan, despite the heroic efforts of men like O'Brien, was greatly weakened.<sup>29</sup> There were, however, other factors in its decline. Parnell refused to give it his approval, nor could he afford to do so. As early as December 1886 he was informed that "the effect is wholly bad; it offends even more than the outrages."<sup>30</sup> But he dared not condemn it at once for its early successes were remarkable and popular. Using his illness as a shield, therefore, he disclaimed all responsibility for its initiation. "Mr. Parnell was not aware that the Plan of Campaign had been devised or was going to be proposed until he saw it in the newspapers."<sup>31</sup> In his heart he harbored the conviction that the lawlessness in

<sup>26</sup> Morley, Vol. III, 380.

<sup>28</sup> Morley, Vol. III, 383.

<sup>27</sup> Paul, Vol. V, 106-9.

<sup>29</sup> Macdonagh's *William O'Brien*, Chap. V, contains a graphic account of O'Brien's activities.

<sup>30</sup> Morley, Vol. III, 370.

<sup>31</sup> R. B. O'Brien, Vol. II, 172.



Ireland would irreparably injure the Liberal alliance and compromise the future of Home Rule. Therefore, when word was brought that Gladstone could not possibly condone illegalities he secured a promise from his lieutenants that the movement would be abated.

The Plan properly speaking lingered until 1889, but even when purged of its more violent manifestations Parnell never supported it. Speaking before an English audience in 1888 he said: "If I had been in a position to advise about it, I candidly admit to you that I should have advised against it."<sup>32</sup> Gladstone, however, enraged at the tone of Balfour's coercion, veered from his earliest views. "Do not suppose that I think the Plan of Campaign is a good thing in itself, or that I speak of it as such. I lament everything in the nature of machinery for governing a country outside the regular law of the country. But there are circumstances where the machinery, though it may be an evil in itself, I say there are many circumstances in which it is an infinitely lesser evil to use this machinery than to leave the people to perish."<sup>33</sup>

The attitude of the Church led many to withhold their support from the Plan. At the start the clergy, spurred by the dictum of Archbishop Walsh that the Plan was the inevitable instrument in the absence of any relief from the State, threw themselves heartily into the struggle. But in the spring of 1888 they were sharply called to account by a papal rescript that condemned the Plan as contrary to "natural justice and Christian charity." It was unlawful to break voluntary contracts and moreover to support lawlessness by extorting money from people. This anathematization was bitterly assailed by John Dillon and other League leaders who claimed that His Holiness had been deceived by the representations of his envoy, Monseignor Persico, whose assumptions in regard to existence of free contract in Ireland had been gathered from contact with landlords and officialdom. Later the court

<sup>32</sup> R. B. O'Brien, Vol. II, 191.

<sup>33</sup> *idem*, 193.



deigned to make a restatement but again enjoined the people to ignore the Plan. Before the controversy had reached a close, however, the Plan had all but lapsed.<sup>34</sup>

The swan song of the Plan was accompanied by the beat of drums and the clash of cymbals. In the spring of 1890 the tenants on the Ponsonby estate at Youghal had beaten their landlord to his knees. They had rejected as unsatisfactory, terms which would not only expunge £22,000 in arrears, but which would have permitted them to purchase their holdings at a reduction of 25 per cent on their rents. Smith-Barry, the ground landlord of the town of Tipperary, sympathetically offered his assistance to Ponsonby, whereupon the inhabitants of Tipperary struck against paying their rents. Smith-Barry promptly evicted fifty shopkeepers. At this juncture O'Brien appeared upon the scene of battle; issued a call for funds and at a cost of £50,000 erected a New Tipperary just off Smith-Barry's territory. The whole affair would have quickly evaporated had not the government arrested O'Brien, Dillon and others on the charge of criminal conspiracy to prevent the payment of rents. The whole country was stirred at the prospect of a political trial at Tipperary. The prisoners, remanded on bail, wisely decided to skip to the United States before the court reconvened. The action of the government was clearly unpopular but before its opponents could reap any advantage the Nationalists were plunged into confusion on the issue of Parnell's leadership.<sup>35</sup>

### *The Land Act of 1887*

The disturbances of these years undoubtedly caused the government to hasten its plans of reform. Parnell in August 1886 had suggested a triennial revision of judicial rents based upon agricultural prices as the means of dealing with the economic crisis. Lord Randolph and others were known to

<sup>34</sup> *Annual Register*, 1887, 316; 1888, 105-6; Paul, Vol. V, 153-4.

<sup>35</sup> *Annual Register*, 1890, 14; Macdonagh, 117-19; Raymond, 68-9.

favor a similar adjustment of the Act of 1881, but were deterred from acting by the sensitiveness of the Liberal-Unionists who were determined to concede nothing to Parnell. Under the pretense of awaiting the findings of the Cowper commission, official action was postponed.<sup>36</sup> But Parnell refused to be quieted and in September laid before the House a comprehensive land bill. He proposed that leaseholders be admitted to the benefits of the Act of 1881; that eviction proceedings be suspended for two years where the tenant paid up a half of his arrears; and finally that tenants whose rents had been fixed before 1884 be granted abatements. Parnell explained that the courts taking into consideration the decline in prices were, on their own responsibility, fixing rents at a point 9.5 per cent below the poor-law valuation instead of 9.5 per cent above it as formerly. In the main these amendments were supported by Gladstone, Morley and the Liberals. The government, on the other hand, was opposed to any measure that would violate the "final settlement" of 1881. Hicks-Beach argued that inability to pay rent arose in many cases as the consequence of paying a high tenant-right fee for the holding; in fact so high that the tenant had not sufficient funds to cultivate the land properly. The government would not buy peace in Ireland on terms which were eminently unjust to the landlords. The deliberate rejection of Parnell's proposals gave the Plan of Campaign a strong case against the government.<sup>37</sup>

In keeping with Balfour's declarations was the introduction of a land bill as soon as the passage of the Crimes Act was assured. The Earl of Cadogan laid before the House of Lords a measure that touched upon all phases of the Irish land question. Though strongly influenced by the findings of the Cowper commission the government refused to accept either its recommendations or those of Parnell with respect to altering the basis or the length of the statutory term. The

<sup>36</sup> *Annual Register*, 1886, 277-9.

<sup>37</sup> *ibid.*, 280-3.

government subscribed to the doctrine that the Irish situation was abnormal and temporary and called for emergency legislation. Accordingly, tenants temporarily insolvent were to be granted a stay in the execution of their evictions; while those without the possibility of recovery were permitted to go through bankruptcy at reduced costs and privileged to remain in occupancy at a fair rent while the proceedings were pending. Tenants guilty of sheer negligence were granted no consideration whatever. The landlords obtained reciprocal benefits; they were exempt from the payment of rates where the tenants were not meeting their rents or where, due to intimidation, the holdings were without occupiers.

The law of eviction was altered in favor of the tenant. A former law endowed the tenant with the right of redemption; that is, the right of reentering his holding if, within six months following the eviction, he was able to settle his arrears. To obviate the expense and irritation which that process entailed Cadogan proposed that the defaulting tenant be permitted to continue in occupancy in the capacity of "caretaker" until six months had elapsed. It was thought that this provision would greatly reduce the number of evictions. A notable gain for the peasants was the admission of leaseholders to the benefits of the Act of 1881. The government finally conceded that it was impolitic to deny one class the privileges granted their neighbors. In addition the bill contained provisions for expediting appeals under the Act of 1881.<sup>38</sup>

Although Lord Cowper expressed a dislike for some of the provisions of the bill, no formal opposition crystallized in the House of Lords. In the Lower House Clause 1 admitting leaseholders was quickly agreed to, but at that point unanimity ceased. The Nationalists treated the main proposition with scorn and would consider nothing less than an all round reduction of 20 per cent in the rents. The Liberals derided the emergency clauses and likewise demanded a revision of

<sup>38</sup> *Hansard*, Vol. 313, 1-18.

the rent-fixing system. More serious, however, was the behavior of the Liberal-Unionists who attacked the bill so fiercely that the ire of the Ulster members was aroused. "Gentlemen," cried John Mitchell, "I am a Protestant like yourselves, and I care no more for the Pope than you. But there is one thing that His Holiness cannot do; he cannot issue a writ of ejectment in the county of Antrim." Finally, the prime minister took a hand and set out to reconcile the various elements in the party to the hard facts of the case. At a Carleton Club meeting on July 19 he dwelt upon the necessity of maintaining the unity of the forces opposed to Home Rule, but at the same time he succeeded in convincing his audience that the bill was vital to the Ulster Loyalists who must not be deserted.

Changes were therefore proposed that were most beneficial to the tenants. All rents judicially fixed before 1886 would be revised in accordance with the changes in agricultural prices and the new figure would obtain for three years. Only a few months before Salisbury had solemnly declared that to interfere with judicial rents would be "laying your axe at the root of the fabric of civilized society." In addition the complicated bankruptcy clauses were abandoned, the use of the writ *feri facias* against the tenant right was forbidden, the equity clauses of the bill were enlarged and leaseholders in perpetuity were admitted to the benefits of the Act of 1881. The amended bill was carried amid the wails of landlords who decried the betrayal of the "final settlement" by their own party.<sup>39</sup>

### *The Purchase Act of 1888*

Lord Cadogan in introducing his bill had stated that "in the opinion of Her Majesty's government the time had arrived when a further large measure must be formulated dealing with the question of purchase by the tenants of their

<sup>39</sup> Paul, Vol. V, 97-9.

holdings in Ireland. To that we mainly look for the settlement of the great question which unhappily disturbs the country; and in that alone I believe will be found a final solution. The question of land in Ireland will be dealt with by the government in two parts—first in a bill . . . which will deal with questions arising out of the Act of 1881—questions of considerable urgency and importance. It will be followed by a measure which, as I said before, will accomplish that which will alone permanently settle the difficulties with which we have to contend—in other words, the abolition of the dual ownership created by the Act of 1881.”<sup>40</sup>

This promise, however, was not immediately fulfilled. Nor did the Address from the Throne in 1888 portend much for Ireland. Satisfaction was expressed with the state of the country, though hundreds were languishing in prison. Parnell continued to bide his time for there was more hope that the ministry would come to grief upon an English rather than upon an Irish question. The administration in Ireland was too firmly saddled to be disturbed and, furthermore,—“among those whose reputations for statesmanship had suffered greatly during the year—Mr. Balfour cannot be reckoned; and the excessive bitterness with which he was attacked was in truth the best testimony to his ability and firmness.”<sup>41</sup>

Vaguely the Address had hinted measures for the development of Irish resources and for increasing the number of peasant proprietors. In order to focus the attention of the House upon the subject Parnell in March brought in a bill dealing with the question of arrears of rent. He alleged that the Act of 1887, while postponing evictions, had greatly stimulated the serving of notices to quit. Since its passage 3,300 notices had been issued. The bill was defeated by a large majority. Balfour was able to show that only six tenants had

<sup>40</sup> *Hansard*, Vol. 313, 9-10.

<sup>41</sup> *Annual Register*, 1888, 231.



been actually evicted and his opinion that it was high time to insist upon the tenants meeting their obligations was favorably received by the House.

In November the government proposed to increase by £5,000,000 the funds applicable for land purchase under the Ashbourne Act. Madden, the Irish solicitor general, in making the motion testified that the experiment was very successful. The applications under the Ashbourne Act had already exceeded the amount of the grant and though Ulster was leading the country in the number of the transactions all sections were participating. In the course of 1887 the applications from Connaught had increased from 185 to 1561. Two-thirds of the purchasers came from the smallest holders of land; those whose rentals were under £30. The taxpayer had no cause of worry for the total arrears upon the annuities were less than 1 per cent. The security was better than had been anticipated as the price of land had fallen to 17 years' purchase and in many cases the tenant right was as valuable as the interest that was being purchased from the owner.<sup>42</sup>

Madden's motion to continue the purchase experiment was couched in a single clause. Gladstone tried to fasten an arrears provision upon the measure but failed. The radicals, including Grey and Haldane, flatly refused to oppose the reform. Goschen before the close of the debate made an interesting revelation. "Our policy is this. We do not wish to arrest the progress of an act which is conferring benefits on the tenants and landlords of Ireland; but I say distinctly that we do not consider that we have redeemed our pledges with regard to Land Purchase by the introduction of this bill. It is not a final and permanent attempt even as regards principle to deal with the land question, but it is an honest attempt to prevent checking an act at present in beneficent operation."<sup>43</sup>

<sup>42</sup> *Hansard*, Vol. 330, 1519-31.

<sup>43</sup> *ibid.*, 1555.

*The Act of 1891*

In March of 1890 Arthur Balfour introduced the long-heralded Tory land bill. It was heterogeneous in character including provisions for the constitution of a land department, for the Congested Districts and for the extension of land purchase. The docket, however, was so crowded that the bill did not reach the committee stage until June. Permission was given to take up the bill at the same stage in the next session, but in the fall the measure was reintroduced.

The Land Act of 1891 is of marked importance in the struggle of the Irish peasants for economic freedom. The creation of a peasant proprietary in Ireland by means of State aid was accepted by all parties. Until that time the attitude of Parliament was uncertain as the preceding land purchase laws were either supplementary or experimental. Balfour's bill necessitating the advance of a huge sum of money was a challenge to the real opponents of the policy. But there was little opposition for no group in Parliament cared to defend the system of dual ownership to the exclusion of land purchase.

During the years 1886-1891 the Home Rule question transcended all Irish questions to such a degree that an Irish reform was considered not per se but in its relation to Home Rule. Liberals and Nationalists persisted in dragging that issue before the electorate on every occasion, while the Liberal-Unionists no less vehemently dwelt upon the "crime" of 1886. The inevitable reaction set in, for the debates became very dull, the country bored and the younger elements restless. Among serious folk it was felt that Home Rule was jeopardizing the consideration of new and pressing problems. In fact, the veto of the second Home Rule Bill (1893) by the House of Lords was hailed with general approbation.

Irish land in 1891 was not a question of first-rate political importance. It had served the Nationalist party a good turn in focusing attention upon Ireland and Home Rule, but after 1886 it was regarded as an impediment. Among Liberals,

some believed the land question had been settled in 1881, while others regarded it as being of little importance. To the Tories it had proved useful as a part of their policy of pacification. The peasant proprietary in many countries was looked upon as "the anchor sheet of social stability" and stability was their first aim in Ireland. Lord Salisbury stated that he did not anticipate that Balfour's measures would bring about a revolution in the social and agrarian condition of Ireland, but he hoped that a class was being created "who would bring back that confidence which had been wanting and restore that life, commerce and industry which recent experience in Ireland had shown to be almost taken away."<sup>44</sup>

Balfour, in proposing to extend the facilities of land purchase, posed as the trustee of the Irish landlords rather than as the benefactor of the peasants. This class through no wilful act of its own, he argued, but largely on account of the advent of democracy, had been dispossessed of leadership in the community. It was the duty of Parliament to rescue this time-honored retainer from political degradation and financial ruin. There was, however, no need of compulsion, since a law that would compel the landlord to sell would in justice compel the tenant to purchase. Obviously, to force such a settlement upon the peasantry would be to invite repudiation and failure.

The purchase arrangements of the Ashbourne Act were used as the foundation of the Balfour scheme. The tenant was required to repay his advance in annuities of 4 per cent running through forty-nine years. To speed up the process it was provided that all claims against the tenancy should be filed against the landlord's purchase money. Further delay was obviated by deferring all questions of title until the tenant was vested with ownership. It was decided to make compulsory the practice of retaining the guarantee deposit from the landlord's purchase money. The landlords would be paid,

<sup>44</sup> *Annual Register*, 1891, 144.

not in cash as formerly, but in government land stock bearing interest at  $2\frac{3}{4}$  per cent. This stock would be gilt-edged; in fact the debt commissioners would be instructed to exchange it for consols at the option of the landlord. Landlords would be permitted to invest their capital in securities bearing larger returns should their family settlements bind them to do so. Normally, Irish land represented a 6 per cent investment although in recent years the owners had made but little net profit.

The desire to afford the taxpayer an indisputable security for the credit advance of £33,000,000 led to arrangements which, though mathematically demonstrable, were complicated to the point of obscurity. They were attributed to the fertile mind of Goschen, chancellor of the exchequer. The safeguards were five in number: the first, the value of the holding, enhanced by the value of the tenant right; the second, the guarantee deposit commonly referred to as "the landlord's fifth"; the third, a cash reserve made up of the difference between the annuity (4 per cent) and the interest-sinking fund charge ( $3\frac{3}{4}$  per cent).<sup>45</sup> The fourth safeguard, the tenants' insurance fund, was created to protect the State against loss in times of agricultural distress. For a period of five years the tenant was obliged to pay a sum equivalent to 80 per cent of his former rent—a sum that would be larger than the 4 per cent annuity. Thus if a tenant purchased his holding for £1,700, at seventeen years' purchase of the rent, he would be called upon to pay an instalment of £80 instead of £68. In five years his insurance would have accumulated to £60. If the fund were utilized during hard times the tenant would be required to renew it. In later years the tenant would be accredited with all sums paid in over and above the annuities. Since the arrears on annuities had never exceeded 2 per

<sup>45</sup>  $4\%$  minus  $3\frac{3}{4}\%$  ( $2\frac{3}{4}\%$  interest plus  $1\%$  sinking fund). The cash reserve was termed the County Percentage Fund since the surplus could be utilized for local purposes.

cent and since such debts must exceed 6 per cent before the cash reserve could be touched, it would seem that the question of security was amply provided for.

The government, however, considering the universal repudiation of annuities to be within the range of possibility, introduced a final safeguard. To that end, be it recalled, Trevelyan in 1884 and Gladstone in 1886 had sought to fasten the ultimate responsibility upon the funds raised by local and general taxation in Ireland. Balfour rejected that possibility for one which the treasury could control with hardly an effort—the Irish guarantee fund. Each year a percentage of the imperial revenues were set aside for purely Irish purposes. Recently a grant of £40,000 a year had been added to the cash portion of this fund. Balfour proposed to permit this grant to accumulate for five years and in this way the resultant accumulated reserve of £200,000 would furnish a final tangible security for the State. Only in case of a national catastrophe would the contingent portion of the guarantee fund be attached, for that fund was charged with indispensable services such as education and care of the poor.

Balfour was not prepared to advocate the transfer of all the holdings in Ireland from the landlords to the occupiers. Indeed such an undertaking might impair the credit of Great Britain and that could not be tolerated. He fixed upon the sum of £33,000,000 as the outside limit of the advances. This figure was arrived at by capitalizing at 4 per cent the Irish guarantee fund. When the £10,000,000 under the Ashbourne Acts and the £33,000,000 under this bill had been exhausted, readvances could be made immediately. Thus a perpetual revolving fund was provided for land purchase purposes and, Parliament consenting, the solution of the land riddle was in sight.

The bill dealt also with the problem of the Congested Districts, concerning which the Cowper commission had made recommendations. Critics of Irish legislation were agreed



that it would be unwise to extend the purchase system to such regions since it would fasten upon the soil those whose best interest it was to forsake the bleak coasts of the west. Balfour, on the contrary, dissented. He believed that ownership would induce habits of thrift, a feeling of security and a spirit of economic independence which heretofore had been lacking among such people. Since the risk was undoubtedly greater there, Balfour felt that the State should be more adequately protected in its advances. By substituting £1,500,000 from the Irish church surplus fund in place of the intangible contingent portion of the guarantee fund as the security of last resort, the chief secretary believed that it would be safe to undertake land purchase operations in the Congested Districts.

The Congested Districts were defined as those poor-law electoral divisions in the counties Donegal, Leitrim, Sligo, Roscommon, Mayo, Galway, Kerry, and West Cork in which the total ratable value when divided by the number of the population gave a sum of less than £1 10s. for each individual. By earmarking these areas for special treatment not only would the healthy regions in these counties be relieved of the dangers of insolvency, but the congested areas could legitimately be made the recipients of favors which could not be afforded all. The Congested Districts board, a new administrative body, was charged with a multitude of tasks. The industrial development of the country was a first care: to afford instruction in agricultural methods, in the care of poultry and livestock and in the curing of fish; to aid in the revival of home industries and undertake in general any enterprise that was conducive to the welfare of these communities. Secondly, it was, by amalgamation and by creating new holdings, to redistribute the land in such a manner as to eradicate all uneconomic holdings. Special power was given it to aid in schemes of migration and emigration. Pecuniary assistance was to be rendered whenever a migrating tenant

sold his holding to a neighbor. In cases where two or more holdings were amalgamated to eliminate the uneconomic holdings the outgoing tenants were compensated not only to the extent of their tenant right but in lieu of an intangible interest, "the privilege of residence." Beginning in a small way, the Congested Districts board, as we shall see, grew rapidly and performed a vital service in the economic regeneration of Ireland.

"To the tenants throughout Ireland, including the congested districts," said Balfour of his scheme, "it will give generous and substantial aid towards making them owners of holdings they occupy. To this country it will give the repose which every approach to a settlement of the vexed and thorny question of the land in Ireland must foster; and that great end will be gained without any conceivable risk to the taxpayer. For no inclemency of Irish skies and, as far as I can see, no mutation of Irish politics can compel us through this bill, whilst we are conferring a great boon upon the Irish tenant, to add one sixpence to the burdens of the Imperial exchequer."<sup>46</sup>

The debates on the bill were dull and uninformative. Chamberlain, as might be expected, made an attempt to attach a local government rider to the measure. He argued that without the consent of the Irish people the Parliament of Great Britain was mortgaging Irish financial resources. Such a criticism, however, could only refer to the contingent portion of the guarantee fund which would be seized upon only when the whole social order was threatened. Gladstone dwelt upon the dangers of repudiation and the Nationalists half-heartedly followed in his wake. But the Tories refused to take alarm, since after all the Union remained intact. Certainly their proposition was less shocking than that of Gladstone who in 1886 had contemplated an extension of £50,000,000 credit together with Home Rule. Though Parnell

<sup>46</sup> See *Hansard*, Vol. 342, 1719-20.

during the debates had expressed the opinion that the Irish land policy should be under the direction of an Irish Parliament, yet shortly after he declared that it had been a terrible thing to ask the Irish party, as the price of maintaining the Liberal alliance, to oppose a measure that secured proprietorship to the Irish peasants. He predicted that the bill would do more real good for Ireland than any Irish law yet passed by Parliament.<sup>47</sup>

### *The Passing of Parnell*

One of the last votes cast by Parnell in Parliament was that in favor of the Land Act of 1891. The circumstances surrounding the fall of the Irish leader from power are well known. On November 17, 1890, the decree nisi was rendered in the case of O'Shea *v.* O'Shea; on the twenty-sixth Gladstone's "dictatorial" letter to Morley was made public property; and three days later Parnell issued his defiant reply. On December 3 the Nationalist party repudiated his leadership and on the sixth split into two groups. Forty accepted the leadership of Justin McCarthy, while twenty-six remained loyal to Parnell. The Boulogne negotiations failed to improve Parnell's position. A fierce struggle ensued in Ireland where the uncrowned king was renounced by his countrymen. He never recovered from the blow, dying after a short illness in October 1891.

During the earlier days of the struggle Parnell endeavored to arouse his colleagues against the dictation of Gladstone. This he failed to do; some sincerely believed that under the circumstances he should resign, while others, resenting his officious methods, welcomed a pretext to oppose him. When it became apparent that the tide was going against him, Parnell renewed his efforts to pit the Irish party against Gladstone and thus avert the inevitable. He claimed that Gladstone intended in the next Home Rule bill to reserve for Im-

<sup>47</sup> 54 and 55 Vict. c. 48.

perial authority the control of the judiciary and of the constabulary, though the funds for the latter would be provided from Irish sources. He charged also that the land question would be settled by the Imperial Parliament and on terms much less attractive to the Irish people than those contained in the purchase bill of 1886. "In other and shorter words," wrote Parnell "the Irish legislature was not to be given the power of solving the agrarian difficulty and . . . the Imperial Parliament would not." These allegations were promptly denied by the former prime minister.<sup>48</sup>

Parnell then demanded that the Liberal head-hunters should be compelled to pay a price for his resignation. If the Irish party were granted concessions regarding constabulary and land, it would follow that the Liberals were acting in good faith. To that end a delegation of Nationalists called upon Gladstone. Nothing, however, was accomplished for Gladstone steadily refused to acknowledge a political issue in Parnell's case. He would make no promises other than assuring the committee that the contemplated bill would meet with their approval.<sup>49</sup> Parnell's efforts, regardless of the sincerity of his motives, were in vain and he was left to face the judgment of his followers.

The Home Rule Bill of 1892 was an anti-climax. The issue was settled to the satisfaction of all but a handful of Liberals and the strife-ridden Irish. The land question hardly came to the surface. Gladstone dismissed it with a gesture: "He had unaccountably omitted to say that the land question would be retained for three years in the hands of the Imperial Parliament."<sup>50</sup> The Tories quietly resumed the reins of office in 1894—and when the Home Rule issue again came to the fore the land question was to plague it no more.

<sup>48</sup> Morley, Vol. III, 445-6. The quotation is from the manifesto "To the People of Ireland," Locker-Lampson, 660-3.

<sup>49</sup> Morley, Vol. III, 451.

<sup>50</sup> *Annual Register*, 1893, 85.

*The Act of 1896*

The Act of 1891 though extending the credit facilities for land purchase by £33,000,000 was a failure. The landlords were unwilling to sell and the tenants reluctant to buy. The latter balked at terms which owing to the requirements of the insurance fund necessitated payments which varied from year to year. This attitude of mind was correctly diagnosed by George Fottrell, land expert. "In serious matters—and land purchase is for him a very serious matter—the Irish peasant is no visionary. He approaches the bargain as one he has to keep, which he means to keep, and which the experience of the Land Purchase Acts shows he does, in fact keep. But he likes to know exactly what the bargain is before he binds himself to keep it, and he is much more impressed by learning that purchase will involve a palpable and immediate benefit, which during his lifetime he and his wife and family can enjoy together, than if he were to be promised fifty years after his death, his descendants should occupy the Garden of Eden free of rent and taxes."<sup>51</sup>

The refusal of the landlords to sell their estates needs little explanation. Government land stock, in which they were paid, stood at a substantial discount. In 1891, when the law went into operation, the stock was quoted at 96 and never recovered. Under the circumstances the owners could not afford to sell out. From 1891 to 1896 land purchase operations were almost at a standstill. Applications which under the Ashbourne Acts had averaged £2,500,000 a year fell to approximately a fifth of that amount.<sup>52</sup>

Clearly a revision was needed and there was little surprise when Chief Secretary Gerald Balfour in April 1896 introduced a measure overhauling the whole machinery of land

<sup>51</sup> Fottrell and Fottrell, *The Irish Land Act 1903 Explained*, 8.

<sup>52</sup> *ibid.*, 4. The applications for loans since 1885 were as follows: 1886, 3,012; 1887, 6,195; 1888, 4,786; 1889, 6,195; 1890, 3,813; 1891, 4,526; 1892, 3,000; 1893, 2,503; 1894, 2,782; 1895, 1,800.



purchase. In other respects, too, the Irish land code had broken down and needed repair. During Morley's tenure as chief secretary (1892-1894), a commission had been appointed to investigate the shortcomings of dual ownership. A bill based upon the recommendations of the Morley commission was not carried, but Balfour incorporated a number of its recommendations in his reform. He explained to the House that an Irish land code of immense proportions had grown up since 1870 and that any land bill would necessarily resemble a collection of small bills calculated to insure greater efficiency.<sup>53</sup>

The changes made in relation to dual ownership have been discussed. The bill of 1896 is of importance largely because of its attempt to revive land purchase. The use of compulsion was rejected as unsound; moreover, a scheme requiring a sum of between £100,000,000 and £200,000,000 would certainly fail of adoption because of the strain upon public credit and the fear of a general repudiation of the annuities. Furthermore, compulsory purchase would work an injustice upon those landlords who by reason of good management had been able to secure a return of 5 per cent. Capital invested in securities would yield at the outside only 3 per cent. In many cases, therefore, compulsory purchase would mean compulsory ruin. "I am convinced," said Balfour, "we must be content to proceed gradually and by arrangement between the parties."<sup>54</sup> There was available for purchase £36,000,000 which under prevailing conditions would not be exhausted for sixty years. "How can you quicken the pace?" asked Balfour. "We must study the various impediments in the existing system which make tenants slow to buy and landlords slow to sell. We must, if possible, remove those impediments and make purchase more attractive to the tenants and sale more attractive to the landlords."<sup>55</sup>

<sup>53</sup> *Hansard*, Vol. 39, 781-2.

<sup>55</sup> *ibid.*

<sup>54</sup> *ibid.*, 809.

The chief secretary proposed to abandon altogether the purchasers' insurance fund. Secondly, since the Irish grant of £40,000 was released, it was possible to dispense with the county percentage fund. The sinking fund payment would come to  $1\frac{1}{4}$  instead of 1 per cent. Thirdly, a new system of repayment—"decadal reductions"—was provided. At the end of the first, second and third ten-year periods the accrued sinking fund would be deducted from the principal. Thus the tenant would pay a 4 per cent annuity not upon the original principal but upon one that was periodically reduced. After the thirtieth year the annuity payment would be so small as never to seem onerous to the purchaser. This procedure, however, would lengthen the period of repayment to almost seventy years. In the fourth place the necessity of making a deposit—the landlord's fifth—disappeared when it was ascertained that up to 1895 there were only £3,625 in arrears as against £2,000,000 in deposits. That there were only 22 defaulters was, in the opinion of the treasury, a remarkable achievement. The landlord's fifth was, therefore, abandoned. Finally, it was provided that the vendors be paid in cash instead of in land stock. The fluctuations in the value of the stock had revealed certain dangers; if the stock fell below par the landlords refused to sell, whereas should the stock appreciate substantially the treasury would be obliged, at the time of redemption, either to extend the period of repayment or to seize upon the guarantee fund—to the distress of the localities. In view of the prospective changes in the law land stock rose to 110, to the delight of the landlords who made haste to secure an amendment to the bill continuing payment in stock.<sup>56</sup>

The bill contained several other features of interest. In 1894 there were 1,500 estates in the hands of the land judges court. Failing to find purchasers this court had become nothing more than an agency for the collection of rentals on

<sup>56</sup> *Annual Register*, 1896, 160-1.

bankrupt estates. Balfour, therefore, proposed that such estates, on the advice of the land commission, be sold to the tenantry. Where three-fourths of the tenants upon such an estate agreed to purchase their holdings the land judge was empowered to declare the remainder purchasers under the terms of the act. The work of purchase in the Congested Districts was to be facilitated by enabling the board to borrow from the treasury a sum equivalent to its capital, £1,500,000. Under the Act of 1891 the board had been obliged to finance its purchase operations out of money sorely needed for other purposes. Balfour's bill passed through Parliament without difficulty and became law in August 1896.<sup>57</sup>

Immediately after, applications for advances began to pour in. In 1895 and 1896 the average amount involved was scarcely £500,000; in 1897 it rose to £1,750,000; in 1898 to nearly £2,000,000, and in 1899 fell off only slightly. But in 1900 and 1901 the amounts fell to £1,250,000 and £1,000,000, respectively. This slump was due entirely to a decline in the value of the stock. The landlords could only afford to sell when the stock stood above par. In 1896, for instance, the price was 110 and a sale at that figure represented a capital gain of 10 per cent. Where the estate was encumbered—and most were—the gain was greater. Presuming that an estate worth £10,000 was mortgaged at £6,000, the owner's interest was £4,000. With stock at 110 he would retain £5,000 or 20 per cent more than the face value of his interest. On the other hand if the stock were quoted at 90, the owner could anticipate only £3,000 and could not afford to dispose of the estate. Before the year 1896 was out land stock had reached its peak—113—a figure that was maintained for two years. Selling was very brisk. But this stock like all others was affected by the Boer War and declined steadily. In 1903 it

<sup>57</sup> See *Hansard*, Vol. 39, 779-820, and *Land Law (Ireland) Act*, 1896, 59 and 60 Vict. c. 47.

had fallen to 93 and it became necessary for the government to act once more.<sup>58</sup>

The table summarizes the extent of land purchase operations under the various acts passed during the years from 1870 to 1896.<sup>59</sup> A healthy beginning had been made in the creation of a peasant proprietary. The holdings that remained

<i>Acts</i>	<i>Holdings</i>	<i>Acreage</i>	<i>Purchase Money</i>		<i>Total Purchase Money</i>
			<i>Amount of Advances</i>	<i>Lodged by Purchasers</i>	
1870	877	52,906	514,536	344,986	859,522
1881	731	30,657	240,801	114,793	355,594
1885-1888	25,367	942,625	9,992,536	170,298	10,162,834
1891-1896	46,834	1,482,749	13,146,892	245,334	13,401,226
<i>Totals</i>	73,809	2,508,937	23,894,765	884,441	24,779,176

to be purchased, however, were estimated to be worth £100,000,000. The statistics reveal the popularity of the Ashbourne Acts under which the tenant's obligations were definite and calculable. Under the Acts of 1891-1896 only a third of the funds available had been utilized. The most important development during this period does not appear upon the balance sheet; namely, the triumph of land purchase over the system of dual ownership, and the acquiescence of all political groups in the principle of peasant proprietorship.

<sup>58</sup> See Fottrell and Fottrell, 6, 9, 10.

<sup>59</sup> *Report of the Estates Commissioners*, 1922, IV. In addition, 6,057 holdings were sold to tenants under the provisions of the Irish Church Disestablishment Act.

## CHAPTER XI

### THE SOLUTION OF THE PROBLEM (1900-1922)

#### *The United Irish League*

FOR a term of years preceding 1898 Ireland was more tranquil than she had been since the advent of Fenianism in the late 'sixties. Evictions had ceased, precarious tenures were few, middlemen had disappeared, and absenteeism though still prevailing had been shorn of its power to do evil. The government of the day was paternal—almost solicitous; there were boards and commissions without end. Second-term rents were being adjudicated to the advantage of the tenants and to the discomfort of the landlords. There was no agrarian crime, no revolutionary movement and Home Rule was safely relegated to the limbo of forgotten things. The Irish party was in shreds; Dillonites, O'Brienites, Healyites and Redmondites were engaged in an endless vendetta for the sceptre of Parnell—much to the relief of Parliament and the Irish Office. The Liberals had ceased to mourn the passing of the "Union of Hearts"; and the Tories who had solved the Irish riddle to their own satisfaction felt free once again to indulge in the necromancy of Empire.

Dark clouds, however, were hovering about the horizon. William O'Brien, perhaps chafing under the kindliness of a too beneficent paternalism, stepped forth as the champion of social justice. The fact that the tenants on the De Freyne estate were paying rents that seemed high in comparison with the annuities of their neighbors seemed to him a grave injustice. There was fortunately a remedy for such a state of affairs, so O'Brien founded The United Irish League and sounded the tocsin. He demanded that the great graziers of



the West be compelled to sell their cattle warrens to the rightful owners of the soil. As the graziers possessed much of the best land in Ireland the league received an enthusiastic reception from the start. In 1900 the league went to the polls and with uniform success captured most of the Irish seats. Fortunately, the leadership of the revived party was entrusted to John Redmond, the spiritual heir of Parnell.<sup>1</sup>

The general election of 1900 revealed a schism in the ranks of the Ulster Unionists. On September 20, T. W. Russell made a vigorous declaration in favor of compulsory expropriation of all landlords. Dual ownership for him had lost its usefulness and the landlords theirs. The government by an extension of £120,000,000 credit could, if so minded, emancipate Ireland of all earthly woes. This was heresy and Russell in the reconstruction was dropped from his post as Parliamentary secretary of the local government board. But the die was cast and though few Ulster candidates were willing to stake their careers upon the issue, many gave Russell's radical proposal lip-service. More important was the fact that the North and the South might unite upon a single platform—that of compulsory expropriation.<sup>2</sup>

The new spirit was soon manifest in Parliament. The playboys came to life again and there were endless speeches, roll-calls, "scenes," expulsions and new rules. In February 1901 John Redmond, seconded by Russell, proposed to amend the Address in favor of an Irish proprietary. He dwelt warmly upon the popular dissatisfaction with dual ownership; the aggravation created by the advantages afforded the purchasing tenant; and the interminable slowness of the voluntary purchase system. The enthusiasts were given a cold reception by Arthur Balfour who reminded them that the country was engaged in a costly war and under no circumstances would court a proposal that called for the expenditure of £120,000,-

<sup>1</sup> See Macdonagh, Chap. IX.

<sup>2</sup> *Annual Register*, 1900, 253-5; 1901, 36.

ooo. He defended the voluntary system on the ground that it had brought into existence some 60,000 proprietors. The amendment was defeated by an overwhelming majority.<sup>3</sup>

*George Wyndham*

George Wyndham, the most sympathetic and understanding of Irish chief secretaries and who with Redmond and Plunkett ushered in a new era in Ireland, took office in November of 1900. Like most of his predecessors he accepted the post reluctantly but unlike them he approached his task with an open mind. "I am very happy here," he wrote. "Not that I hope to succeed personally. A man who expected personal success in Ireland would be ripe for Hanwell. But the work is most interesting and the call peremptory. I feel that I was destined to come here."<sup>4</sup> Of Ireland he wrote, "It is a land of sorcery; false, but so fair that the adventurer willingly dives beneath the waters to reach the enchanted palace of the Princess Arranrhod."<sup>5</sup>

As Wyndham was not elevated to Cabinet rank until the retirement of Salisbury in 1902 he could at first do little but travel about and speculate upon the possibilities of amelioration. "I wish I were Emperor to do exactly what I please for the people here. But something must somehow be done."<sup>6</sup> He was utterly out of sympathy with his superior, the lord lieutenant. "Our joint relation to Ireland and the Empire strikes me as simply tragic," he wrote of the Earl of Cadogan.<sup>7</sup> Indeed it was like "speaking through a megaphone with a pudding in its orifice." At times he was entirely discouraged. "For the future I propose to confine these conversational exercises to the minimum required by loyalty and politeness, and to keep working away with my subordinates on the prob-

<sup>3</sup> *Annual Register*, 1901, 36-7.

<sup>4</sup> Mackail and Wyndham, *Life and Letters of George Wyndham*, Vol. II, 407.

<sup>6</sup> *ibid.*, 421.

<sup>5</sup> *ibid.*, 407-8.

<sup>7</sup> *ibid.*, 426.

lems. . . . I shall endeavor to construct and formulate a general plan of lasting utility any part of which might be undertaken as an organic limb of the whole.”<sup>8</sup> But through all the dreary months of impotence Wyndham’s correspondence rings with a quality of hopefulness and buoyancy that was peculiarly his own. Early in 1902 he wrote, “Even if I succeed in accomplishing little, ideas are immortal. They impregnate the others and ultimately assert themselves over the general inertia of the world. But I believe I shall win on Fisheries and ‘law and order’ and go nearer to winning on land than I thought a year ago.”<sup>9</sup>

From the start Wyndham manifested great interest in the land question. The movement in favor of compulsory expropriation was a revelation and a surprise. “All 103 Irish members,” he noted, “with the exception of Colonel Saunderson ‘sans phrase’ and McCartney, with a minimum of hedging have committed themselves to this policy.”<sup>10</sup> He, himself, did not favor it. “Compulsion apart from all other and prior obligations,” he wrote, “would stereotype the existing and intolerable situation. The family of seven, inhabiting a hovel, and reclaiming four acres scattered in from ten to fifteen patches, would be made owners (!) of that hereditas. In a few years the small shopkeeper, the money lender, and the village solicitor would buy out the cottiers and the weary round would begin again. Are we then to do nothing?”<sup>11</sup> On the other hand he was convinced that “Purchase will remain a farce and become a dead letter unless (a) some security is given to the landlord that he will not be ruined and (b) some provision made that the tenant may buy a holding in which he can live instead of the scattered patches of sippy bog.”<sup>12</sup>

Late in 1901 Wyndham believed the time ripe for a new land purchase bill. Due to inflation and the low price of stock

<sup>8</sup> *ibid.*

<sup>9</sup> *ibid.*, 427.

<sup>10</sup> *ibid.*, 410.

<sup>11</sup> *ibid.*, 411.

<sup>12</sup> *ibid.*, 411-12.

the graziers were on the verge of ruin and if offered liberal terms would probably sell out. The popular agitation should be checked before it became dangerous. "If we can get in a reasonable constructive policy before the agitation develops and whilst the 'grass' interest is still suffering . . . I believe we shall win."<sup>13</sup> "My heart," he wrote, "is set on the Land Bill." But his suggestion did not find favor and he was disheartened. "My Irish friends are being as naughty as they dare; I have had to prosecute four M.P.'s and ten or fifteen minor agitators. In short, the agitation storm cone is hoisted and I am in for a bout of the old, old business. It is a great waste of time and energy which I could spend to better purpose if they would allow me to go on with constructive work. But there it is."<sup>14</sup> To his brother he wrote: "I cannot tell you how blissfully, blatantly reconciled I should be to be returning for a brief space into private life. . . . I want to smash the agitation, introduce a Land Bill, get money for a harbour-fishing policy in the West and float a Catholic University. After that anyone may be a minister who prefers to miss all the joys of life."<sup>15</sup>

He refused to be alarmed over the United Irish League though his opponents, and indeed some of his friends, were terrorized by rumors that peasants were being hounded into the league and forced to obey its dictates.<sup>16</sup> Speaking at Exeter in December 1901 Wyndham told his constituents that the league was made up principally of notoriety hunters and that its importance ought not to be exaggerated. The government would see to it that the maximum protection was afforded the oppressed but at the same time a minimum of advertising should be given the oppressors.<sup>17</sup> The executive was content to stimulate the police, somewhat rusty from inactivity, and to seize upon the incendiary organ of the

<sup>13</sup> Mackail and Wyndham, Vol. II, 429.

<sup>16</sup> *Annual Register*, 1901, 232.

<sup>14</sup> *ibid.*, 433.

<sup>17</sup> *ibid.*

<sup>15</sup> *ibid.*, 433-4.

league—*United Ireland*. But as the league increased in strength and in boldness an insistent demand was heard for the revival of the Crimes Act. This step Wyndham was loath to take. As his cousin put it: "He is far more in sympathy with the Nationalists than with the Ulster Protestants whom he dislikes for their sour bigotry. His own people, however, are constantly worrying him to coerce, and he has been obliged to make a show of doing something that way though most unwillingly."<sup>18</sup>

Early in 1902 it was boasted that there were between a thousand and two thousand league branches; but Wyndham assured the House that regardless only 75 branches were having a prejudicial effect and though 211 persons were being boycotted, the league was responsible in only 27 cases. The actions of the league, though hardly illegal, were certainly erroneous for the minds of the English people would soon be set against any extension of land purchase.<sup>19</sup> In February the judges in assize were instructed to call the attention of the grand juries to the prevalence of boycotting and the existence of associations that were interfering with personal liberty. But the Tory press was not satisfied and criticized the administration severely. The Cabinet wavered, but on this point Wyndham threatened to resign unless he was supported wholeheartedly. "They are all waiting to pounce on me because I won't go their way in Ireland," he wrote bitterly.<sup>20</sup> In the end, however, he was forced to capitulate though he knew that the Irish leaders had the agitation completely under control. He could not afford to reveal an intimacy with Redmond that was unique in political annals for fear of being denounced as a stark heretic. "I am obliged to be fierce with him in public," Redmond told Blunt, "but I know he is with us in his heart, and we all know it."<sup>21</sup> In April the lord lieu-

<sup>18</sup> W. S. Blunt, *My Diaries*, Vol. II, 18.

<sup>19</sup> *Annual Register*, 1901, 232.

<sup>20</sup> Blunt, Vol. II, 20.

<sup>21</sup> *idem*.



tenant proclaimed nine counties in southern and western Ireland, and before the year was out half the country was under the ban. In these regions the Crimes Act was invoked to provide summary justice in cases of intimidation and conspiracy and to enable the government to suppress all journals abetting the boycott.

Again Wyndham pressed the land bill upon the Cabinet; if for no other reason, to give all parties in Ireland something other than agitation and coercion to think of.<sup>22</sup> Cadogan again withheld his approval. "I shall hang on," wrote Wyndham, "but I doubt if I can be of much use either in the House or in Ireland under the existing Gilbertian conditions."<sup>23</sup> Balfour, Wyndham's closest confidant, insisted upon action and the Cabinet was finally induced to accept a bill that "did not profess to be anything but a makeshift."<sup>24</sup>

The abortive bill of 1902 essayed to remedy a really intolerable situation. The peasants had neither confidence in nor respect for the system of dual ownership; a fact attested to by the enormous numbers of appeals before the courts. The administration proposed by the use of an ingenious device to force the existing system out of existence. When the tenant applied to have a fair rent fixed, the landlord was privileged to have the court determine a sale price on the holding. Should the tenant refuse to enter upon an agreement of sale the old rent would be continued for a further statutory period. Conversely if the tenant desired to purchase, where the landlord refused to sell the court would be permitted to fix a rent for the succeeding period more favorable to the tenant. Thus in either case pressure would be exerted to force an agreement of sale. Both parties would be granted more favorable purchase terms than before; the landlords would be paid in cash and the tenant annuities would be reduced to  $3\frac{3}{4}$  per cent. Decadal reductions would be abandoned because the reduc-

<sup>22</sup> Mackail and Wyndham, Vol. II, 437.

<sup>23</sup> *idem*.

<sup>24</sup> Blunt, Vol. II, 21.

tion of the annuity entailed a longer period of repayment. In addition the commission would be permitted to purchase and resell whole estates. The bill received a favorable response, even among Nationalists, but was dropped because of a remarkable turn of events in Ireland.<sup>25</sup>

*"The Peace Conference"*

Matters in Ireland came to a head in the summer of 1902 with the eviction of tenants on the DeFreyne estate. The question was not one of inability to pay rents, but rather a refusal on the part of the tenants to tolerate longer conditions which they considered discriminatory. The dispute had ceased to be a local affair since the tenants were reinforced by the league and Lord DeFreyne came to be regarded as the champion of the interests of the landlords. It was announced that DeFreyne would seek injunctions in the high court to restrain Mr. Redmond and other Parliamentary leaders of the league from interfering with his tenants and inviting them to resist lawful demands. This step was supported by a newly formed Landlord's Trust; an organization with a capital of £100,000. Its object was to defend the rights of all law-abiding persons against intimidation. Redmond and his supporters replied with notices of legal proceedings against the leading members of the trust. Through the spring of 1902 the league maintained an active offensive, extending and perfecting its system of boycott.

At this juncture there developed a situation almost unique in the history of Ireland. Indications of a desire to terminate the land struggle appeared; at first from the landlords' side, though not from influential quarters. Talbot Crosby in the landowners' convention proposed that they should agree to the principle of a joint conference should the suggestion come to them from the tenants. The proposal was treated with scorn and in fact did not receive a second. In August Captain

<sup>25</sup> Mackail and Wyndham, Vol. II, 430; *Annual Register*, 1902, 102-3.

Shawe-Taylor, the son of a Galway landlord, "with a directness and audacity which took away men's breath in Ireland," issued in his own name an invitation to representative landlords and tenants to meet in conference. The replies were not encouraging for Shawe-Taylor's credentials of authority were questionable. Still, in the southwest a number of landlords met and passed resolutions in favor of a conference. The movement progressed despite the frowns of the great landlords and the scorn of Redmond who, speaking at Waterford in September, said that the white flag was being held out by a portion of the landlords.<sup>26</sup>

An impetus was given by the publication of a brief statement by George Wyndham. "No government could settle the Irish land question, it must be settled by the parties interested. The extent of useful action on the part of any government is limited to providing facilities in so far as may be possible for giving effect to any settlement arrived at by the parties."<sup>27</sup> Wyndham realized how futile it was to press a bill in the House when both landlords and tenants were dissatisfied with it. "And why did they oppose this bill?" asked John Redmond. "Because they saw in it no hope whatever of a settlement of the land question. They only saw in it one more attempt to approach this question, and they made up their minds that the only hope in the near future of obtaining a measure to settle the Irish land question was to unite their forces, and to press upon the government terms which would be fair to both sides, and which would effect a complete and final settlement of this war which, for so many centuries, had devastated and desolated their country."<sup>28</sup>

Indeed men on both sides began to realize that the only hope of solution lay in the acceptance by Irishmen of the responsibility. At the end of the summer Lord Monteagle and others, declaring that the landlords' convention did not ade-

<sup>26</sup> *Hansard*, Vol. 118, 810; *Annual Register*, 1902, 247-8.

<sup>27</sup> *Hansard*, Vol. 118, 808-9.

<sup>28</sup> *ibid.*, 809.

quately represent the viewpoint of their class, formed a committee of which Lord Dunraven was elected chairman to test the real opinion of the landlords of Ireland. The question: "Are you for or against a conference?" was put to every landlord who possessed over 500 acres of land. To the amazement of the country the owners voted in the affirmative, three to one. Dunraven's committee immediately issued an invitation to the Nationalist party to appoint delegates to treat with the representatives of the landlords. By this time the movement had gained the adherence of the leaders of the tenants and forthwith William O'Brien, T. C. Harrington and John Redmond came forward as the delegates of the Irish party and T. W. Russell in behalf of the Ulster tenants. The landowners' convention refused to assist in the selection of representatives for the landlords, whereupon Dunraven's committee chose Lord Dunraven, Lord Mayo, Colonel Poe and Colonel Everard.<sup>29</sup>

"I well remember," said Redmond in the House at a later date, "the feelings I heard expressed on all sides in Ireland at the time; men shrugged their shoulders with incredulity, and poured ridicule on the idea that such a gathering could ever come to a unanimous decision. Extreme men on all sides scoffed at the idea that any good would come out of it. But in the end the doubters were put to silence by the production of a unanimous report—a unanimous report arrived at by compromises and by large concessions, both of interest and sentiment, made by both parties for the sake of peace."<sup>30</sup> This report was issued on January 3, 1903.<sup>31</sup> It was heartily endorsed by the Irish parliamentary party and the United Irish League and county and district councils in all parts of the country passed resolutions in its favor. Finally, the landlords' convention, which up to the time of the last meeting of the conference had derided its efforts, unanimously passed a reso-

<sup>29</sup> *ibid.*, 810-11.

<sup>30</sup> *ibid.*, 811.

<sup>31</sup> *Sessional Papers*, 1903, Vol. 57, 331-2.



lution thanking the conference for its work and urging the government to give the report its most serious consideration.<sup>32</sup>

In the conference two propositions had been submitted; one by Lord Dunraven and the other by William O'Brien. In the end the scheme adopted was substantially that of O'Brien.<sup>33</sup> The report began by condemning dual ownership and urging the creation of a peasant proprietary. The method of purchase and resale of estates by the State was disapproved except in respect to the Congested Districts or where the owner and half the tenants desired that procedure. The conference preferred that the sale price be determined by the owner and the occupier. It was of the opinion that the landlords ought to be paid a price for their lands which would yield incomes of not less than those derived from second-term rents. If the land were, in each instance, to fetch a sum which upon investment at 3 or  $3\frac{1}{4}$  per cent would equal the prior income, the landlords would probably be willing to sell. A fair price likewise would encourage them to remain in Ireland. To that end the conference recommended that the purchase arrangements be such as to insure the landlord against any diminution of the capital sum on account of delays, costly title search, guarantee deposits or losses pending reinvestment. A more important inducement would be a provision enabling owners to purchase their demesne lands on the same terms as the tenant purchased his holding. Thus freed from onerous mortgages the landlords would be likely to remain.

The most important demand of the tenants was that they should be permitted to purchase on terms that would secure a reduction of from 15 to 25 per cent on second-term rents. Separate treatment was asked for those whose position was least hopeful: the inhabitants of the Congested Districts, the evicted tenants and the agricultural laborers.<sup>34</sup>

In conclusion, it was pointed out that there would be a dis-

<sup>32</sup> *Hansard*, Vol. 118, 812.

<sup>33</sup> Macdonagh, 160-1.

<sup>34</sup> *Sessional Papers*, Vol. 57, 321-32.



crepancy between the amount advanced by the State and the amount ultimately paid back. The income from second-term rents was approximately £4,000,000 and if all-round reductions of 20 per cent were granted the receipts from the annuities would be only £3,200,000. The difference capitalized at 3 per cent would amount to £22,000,000. Redmond calculated that the burden to the State would not exceed £50,000 per annum on account of the slowness of conducting such a huge operation. The treasury in all would be asked to advance to the Irish peasants £100,000,000 and make a free grant of £22,000,000 for the purchase of social peace and contentment in Ireland. The land conference was agreed that the expenditure was well worth it.<sup>35</sup>

The conference report was discussed in Parliament in February in conjunction with the debate on the Address. Redmond described the work of the conference in glowing terms and urged the government to accept the policy laid down in the report. Never in its long history had the House witnessed such a display of equanimity on an Irish question. Wyndham, of course, could make no promises but the tone of his remarks was most hopeful. The work of the conference was lauded by Morley, Haldane, Grey, Saunderson and O'Brien, while Redmond adopting an attitude of calmness, fortitude and goodwill spoke of the landlords as no Irish leader had dared. "May I, without offense, say that you owe something to the Irish landlords? They have been your garrison in Ireland, and if they are in a position with ruin staring them in the face, and there is an opportunity of rescuing them from that position, I certainly think you are in honor bound to go to their relief, at any rate to a moderate extent."<sup>36</sup>

His closing words raised the tone of the discussion to

<sup>35</sup> It was pointed out that the costs of the Irish administration could be greatly reduced with a surcease of the agrarian strife, especially in the land and police offices.

<sup>36</sup> *Hansard*, Vol. 118, 819.

heights which were indeed difficult to maintain. "The situation in Ireland is very strange at this moment. It is full of hope, but because it is so full of hope it contains in itself a menace of danger. To raise the hopes of a whole people to the highest pitch of expectation by the speeches of the chief secretary, the lord lieutenant, and the under-secretary, and by a declaration in the King's Speech, and then to dash those hopes to the ground would be neither a safe nor a sane proceeding. At this moment the hearts of the whole people of Ireland are filled with a confident hope; crime is unknown; coercion has been suspended; class animosities, for the moment at any rate, are at an end; a united Ireland stands at the bar of this House today and asks for the concession of this great measure of justice and appeasement. The whole people are waiting in painful and strained anxiety for the realization of the hopes based upon your own declarations. It is, in truth, a veritable truce of God. It is not an exaggeration to say that the whole Irish people at this moment are thrilling with the expectation of deliverance from that which was once called by the late Lord Dufferin 'the perennial desolation of a lovely and fertile island.' Never in the history of this House had a government a greater or more blessed opportunity of carrying to fruition a great and blessed policy. I would beg the right honorable gentleman to have the courage to be thorough in his policy, to recognize that the time has passed for any further patching of, or meddling with, this question, and I am convinced that if he is thorough in his policy the result in the future of carrying that policy into effect will be like the waving of a fairy wand over a distracted and poverty-stricken country, calling out peace from turbulence and wealth from poverty. If this Irishland question is settled on the basis of an occupying proprietary on the terms suggested by the conference, a new Ireland will have been called into existence, and by the free industry of the people you will be making an addition to the industrial wealth of Ireland as surely as if you

were able to call up thousands of rich new acres from the sea. By this policy you will be offering to the Irish people a new field at home for their industry, instead of driving them, generation after generation, as you have done in the past, to take across the ocean into other lands the strong arms, the brave and faithful hearts, and the bright intellects, which ought to be occupied at home in creating the prosperity and happiness of their own land; you will remove the enmity and hatred between classes, and inaugurate a new era of peaceful industry, and of national thrift and happiness. Do not, I beg of you, lightly throw away this golden opportunity, such as which no man living has ever witnessed before and none of us, if it is rejected now, will see again. Do not reject it; on the contrary grant to the blessed influences of the moment, and to the united, peaceful demands of both parties concerned and of all classes in Ireland, this great measure of justice, remembering, as you ought to remember, that if you refuse this reform now, England will be forced to grant it sometime in the future, and perhaps under the pressure of such circumstances as no man can contemplate without dismay.”<sup>37</sup>

### *Wyndham and the Cabinet*

In July 1902, with Salisbury's retirement, Lord Dudley succeeded Cadogan and Wyndham was elevated to the Cabinet. The chief secretary was elated at the prospect. “I am absorbed in my work. Ireland is more interesting than at any time since '87. There is more to win and lose in the next six months than ever before. A certain amount of fighting is necessary to prevent them from bullying each other. But with that there are better hopes of a larger peace than I have ever seen.”<sup>38</sup> In October in the midst of the conference negotiations he wrote: “The pace here is becoming delirious, so that London, even with Cabinet, will seem a stagnant pool.”<sup>39</sup> In

<sup>37</sup> *Hansard*, Vol. 118, 819-20.

<sup>39</sup> *idem*, 451.

<sup>38</sup> Mackail and Wyndham, Vol. II, 448.

January he wrote Balfour: "The conference and its report have been a great success, not only in essence but—and in Ireland this is equally important—in effect also on public opinion of all kinds. Notably the landowners' convention have blessed the report. Londonderry, Barrymore and Erne, all here, are pleased—very pleased—though inclined to attribute the result [more] to the folly of the Nationalists than to the wits of Dunraven. I think Dunraven has done very well. . . ." <sup>40</sup>

A miracle had been performed in Ireland but the task thrust upon Wyndham, that of persuading the Cabinet and Parliament to accept the compromise, was a difficult one. He feared lest his colleagues and the country would not be able to appreciate the full significance of the development in Ireland. Would they take a lofty and altruistic view or would they, as he feared, continue to be guided solely by considerations of politics and commerce? "They are sincere and honest, and so on; but they have not the single desire that men, women and children should be happy and hopeful in Ireland, and the single belief that this can be by the grace of God and not by our ingenuity and industry." <sup>41</sup>

From the mass of the unenlightened and the selfish he emphatically excepted Arthur Balfour, who unfortunately has never been more than "bloody Balfour" to a long procession of Irish writers. Without the prime minister's unsparing support Wyndham's land bill would never have reached the statute book. Had Balfour been insincere in encouraging his chief secretary, he could have without much effort snuffed out the latter's plans in the Cabinet. A fair argument against the adoption of the bill would have been the inexpediency of financing the project at a time when the country was in dire financial straits following the Boer War. The opposition of the Liberal-Unionists, especially Chamberlain, and a group of powerful landlords gave rise to "counsels of timidity"

<sup>40</sup> Mackail and Wyndham, Vol. II, 453.

<sup>41</sup> *idem*, 456.

within the Cabinet. But Balfour and Ritchie, the chancellor of the exchequer, urged Wyndham to proceed regardless of the opposition. Without the former's support "nothing would have been effected."<sup>42</sup> Balfour, in addition, succeeded in winning the *Times* to the measure and this was most important for regardless of the unanimity in Ireland, it remained to persuade the British taxpayer that he would suffer no loss. Indeed, this was the chief impediment in the Cabinet. "Even within forty-eight hours of his bringing it forward in the House," wrote Blunt, "all had seemed lost, and it was only the splendid support given him by Arthur Balfour that had carried the day, as I understood him, by a single vote against Chamberlain's opposition."<sup>43</sup>

On March 24, the day before the bill was introduced, Wyndham wrote; "The future of Ireland, and my future for what it is worth, turns on what happens tomorrow."<sup>44</sup>

### *The Wyndham Land Bill*

In introducing his great measure in the House Wyndham dwelt first upon the nature of the Irish land problem. The establishment of a system of free trade in land in Ireland was an impossibility because of the lack of any other employment. The whole community was so harnessed to agriculture that its slightest decline "induces stresses and contractions throughout every layer of society, so that, as in geological formations, there is a tendency towards disruption and catastrophe."<sup>45</sup> Only the government could rectify this unfortunate and indeed unique situation. Dual ownership was an honest attempt to reach a proper adjustment but experience had revealed a reluctance on the part of both landlord and tenant to invest money in the soil. The owners would undertake no improvements, while the tenants were tempted to allow the

<sup>42</sup> See Blunt, Vol. II, 46-8; Mackail and Wyndham, Vol. II. 453.

<sup>43</sup> Blunt, Vol. II, 46-7.

<sup>45</sup> *Hansard*, Vol. 120, 184.

<sup>44</sup> Mackail and Wyndham, Vol I, 82.



land to run out at the close of the statutory period. "The landlords are ruined financially," declared Wyndham, "the tenants are being ruined morally. Agriculture is starved of capital and industry."<sup>46</sup> In addition dual ownership imposed onerous burdens upon the State. The expenses of the land commission—£140,000 annually—were small in comparison with the cost of maintaining a police force that was largely occupied in dealing with agrarian unrest. Police protection in Ireland required an expenditure of £1,400,000 a year. The amount of litigation which the system involved was immense.

There was one method by which the problem could be solved: by an extension of the purchase system. Already 80,000 peasants, without loss to the State, had attained the dignity of ownership. In the long run the State had been the gainer for with the increase of proprietors there had followed a diminution of social disorders and a decrease in administrative costs. Now the landlords and tenants came forth, saying: "We are prepared to do what we conceive to be our part of the contract in order to get peace if the State will give us the necessary facilities."<sup>47</sup> To complete the transfer of the land to the occupiers it would be necessary to deal with 490,000 holdings; 70 per cent of which were valued at £15 and under. In shape the problem was complicated for in many cases there were superior interests to be satisfied before a sale could be consummated. "When I first undertook this task," said Wyndham, "I was disposed to brush all these difficulties upon one side, and to believe that they were largely the figments of a legal brain. But it is not so. They are there and they have to be dealt with."<sup>48</sup> The redemption of these interests would involve a heavy expense and unless aid were given by the State the landlord could not sell for fear of walking straight into the workhouse.

Coming to the body of his scheme Wyndham explained

<sup>46</sup> *Hansard*, Vol. 120, 186.

<sup>48</sup> *ibid.*, 189.

<sup>47</sup> *ibid.*

that the government could not, as the report recommended, proceed by sale of individual holdings. The cost would be prohibitive and the delay insuperable. Except in the case of the Congested Districts, therefore, purchase must proceed by the transfer of whole estates. The landlords, however, would be permitted within the limits set by the bill to make their arrangements with the tenants subject only to the oversight of the estates commissioners—administrative officials responsible to Parliament.<sup>49</sup> A landlord would not be required to dispose of all his lands but he must sell an “estate”—“an area which whether taken alone or in conjunction with untenanted land added to it, when it is expedient to do so in order to remove grave economic blemishes, can be dealt with as a whole, so that those blemishes are removed.”<sup>50</sup> Care would be taken not to purchase merely the tenanted land for often that comprised but a fringe of the poorest land on an estate.

With the acquiescence of the tenants of three-fourths of the holdings (both in number and value) the estates’ commissioners might arrange for the purchase of the estate. Until a majority of the tenants had actually purchased, the holdings would be subject to statutory rents; but thereafter the minority would be obliged to purchase. Both the estates’ commissioners and the Congested Districts’ board would be permitted to purchase estates in the land judges court. The commissioners would not be permitted to hold lands in their possession worth over £5,000,000. In order to encourage the landlords to remain in Ireland it was provided that any owner might secure an advance up to £20,000 upon his demesne. Wyndham urged that the owners of untenanted grazing lands, especially in congested areas, seriously consider the advisability of accepting the terms offered them in the bill.

<sup>49</sup> The names of F. W. Wrench, land commissioner, M. Finucane, director of agriculture in India, and W. F. Bailey, assistant land commissioner, were proposed.

<sup>50</sup> *Hansard*, Vol. 120, 191.

For the State it was important that the tenant's annuity should amount to less than his present rent. The State could not afford to grant abatements for it had obligations to meet that depended entirely upon the tenant's ability to pay his instalments. Wyndham proposed, therefore, a system of price "zones" under which the possibility of non-payment would be reduced to a minimum and each class of tenants would be afforded equitable treatment. In the case of second-term rents (and analogous rents) the annuities must represent a reduction of from 10 to 30 per cent; and in the case of first-term rents, a reduction of from 20 to 40 per cent. This was fair since on the average second-term rents were about 20 per cent less than first-term rents. Due to the limitations imposed by the zonal system the purchase price of any holding with a second-term rent must fall between  $21\frac{1}{2}$  and  $27\frac{2}{3}$  years' purchase of the rent. Thus a holding with a rental of £100 would bring the landlord between £2,154 and £2,769. Similarly in the case of a first-term rent the price would vary from  $18\frac{1}{2}$  to  $24\frac{1}{2}$  years' purchase and the tenant renting at £100 would pay his landlord not less than £1,846 and not more than £2,461 for the holding. These prices were very generous so far as the owners were concerned.<sup>51</sup>

In order to give the occupiers reciprocal advantages the annuity payments were made smaller than ever before;  $3\frac{1}{4}$  per cent ( $2\frac{3}{4}$  per cent interest and  $\frac{1}{2}$  per cent sinking fund payment); but running through  $68\frac{1}{2}$  years. The system of decadal reductions was abolished; in the first place because with such low terms the period of repayment would extend over one hundred years and secondly because Wyndham alleged that decadal reductions because of the easy terms encouraged mortgaging and subdividing. In fact, in order to thwart the money-lender Wyndham proposed that the State refuse to redeem one-eighth of its advance. With a permanent mortgage upon every holding in Ireland the State could

<sup>51</sup> Fottrell and Fottrell, 21-2.

defeat the operations of the money-lender. This provision, however, aroused a fierce opposition and was finally abandoned. In its place were substituted stringent provisions against mortgaging and subdividing.

The landlords would be paid henceforth not in stock but in cash since many of the estates were burdened with encumbrances that could be redeemed only in cash. The money would be raised by the flotation of guaranteed  $2\frac{3}{4}$  per cent stock. The outside limit of the State advances was set at £150,000,000—the capitalized equivalent of the £2,548,000 exchequer contribution to Ireland. Wyndham believed that only £100,000,000 would be needed to complete land purchase in Ireland, but that proved to be a miscalculation. Since under the terms of the bill it was planned to raise and utilize this money in fifteen years, Wyndham provided that the new exchequer contribution of £185,000 should be attached to safeguard the treasury against losses that so large an issue of stock might entail.<sup>52</sup>

To induce the landlords to sell out Wyndham proposed to give them a cash bonus of £12,000,000. In fact, this aid was essentially necessary; to aid in the redemption of paramount interests and in satisfying settlements binding the land to yield a certain income. Wyndham desired that the cash bonus should be graduated inversely with the purchase price; i.e., 15 per cent on an estate worth £5,000, 10 per cent on one worth £20,000 and 5 per cent on one worth £40,000, etc. The objections of the powerful landlords in the end prevailed and the bonus was changed to one of 12 per cent upon the sale price.<sup>53</sup> The author of the bill was very sanguine with respect to the financial workings of the scheme. No more than £390,000 for bonus purposes would be required in any one year and at least £250,000 would be saved in administration

<sup>52</sup> Money due Ireland as the equivalent voted in 1902 for education in Great Britain.

<sup>53</sup> 3 Edw. 7, c. 37, sect. 46.

costs. "I may say," said Wyndham, "that I believe that the settlement of the land question in Ireland is vital to Ireland, and that Ireland is well advised to save money in other matters in the hope of settling this question."<sup>54</sup>

In concluding his elaboration of the bill, Wyndham spoke as follows: "There are two alternatives before us. We can prolong for another one hundred years, for another one hundred and fifty years, a tragedy which is none the less, which is indeed the more tragic, because it is thin and drawn out. Or we can today initiate, and henceforth prosecute, a business transaction occupying some fifteen years, based in common, with all sound and hopeful transactions upon the self-esteem, the probity, and the mutual goodwill of all concerned. Sir, I believe this thing will be done. All interests—landlord and tenant, Nationalist and Unionist, British and Irish, can hope for no tolerable issue to any view, constitutional, political, economic, which they severally may cherish until, by settling the Irish land question, we achieve social reconciliation in Ireland."<sup>55</sup>

### *The Passage of the Act*

"When I got up in the House of Commons last week," Wyndham told a friend, "I felt that I had my back against a wall, and was fighting for my life, and as often happens in such circumstances, I was able to do my very best."<sup>56</sup> Indeed, his task had not been easy in view of the complicated nature of the subject and to expound lucidly a project that had required eighteen months of preparation left little room for oratorical effect. But the cause for which Wyndham pled—a settlement of the land question—was given an unusual reception by men of all parties. It was generally felt and the opinion was re-echoed in the press that in bringing to an end the principal social and economic difficulty of Ireland it would

<sup>54</sup> *Hansard*, Vol. 120, 205.

<sup>56</sup> Blunt, Vol. II, 48.

<sup>55</sup> *ibid.*, 207-8; for Wyndham's speech see *Hansard*, Vol. 120, 181-208.



not be wise to treat the financial arrangements in a timid and parsimonious spirit.<sup>57</sup> Only the economists raised a voice of protest; holding that no case had been made out for so great an expenditure, that the guarantees against loss were more apparent than real, and finally that there was no safeguard against the recurrence of the economic evils which the bill was designed to obliterate.<sup>58</sup> Only one member, Mr. Coghill, supported this argument. To add zest to his criticism of the scheme he had said: "We find now that there is a union between Orangemen and Nationalists, and all because there is an alluring prospect of a raid upon the British treasury."<sup>59</sup> His, fortunately, was an isolated view.

Concurrently with the introduction of the bill there was published an important report on land purchase by W. F. Bailey, a member of the staff of the land commission.<sup>60</sup> His inquiry sought to ascertain how far actual experience confirmed the theoretical advantages of peasant proprietorship and what if any were the drawbacks of the system. Nearly 15,000 proprietors had been interviewed and almost without exception it was shown that: "The magic of property had turned sand into gold." Instead of allowing the land to run out, improvements of every description were in progress. There was practically no subletting or subdividing. Indeed, the proprietors were in better condition than the judicial tenants; they were able "to pay in cash." The anxiety as to the future that had previously oppressed them, had passed away. Both land inspectors and priests had stressed the feeling of contentment that pervaded this class. Bailey's report was circulated among the members of Parliament and was favorably commented upon in the press. Undoubtedly it was a factor in allaying the apprehension of the taxpayer in regard to the soundness of land purchase.

<sup>57</sup> *Annual Register*, 1903, 89.

<sup>58</sup> *ibid.*

<sup>59</sup> *Hansard*, Vol. 120, 228.

<sup>60</sup> *Sessional Papers*, 1903, Vol. 57, 333-67.

The second reading of the bill was postponed until May 4; ostensibly because of Wyndham's illness, but in reality because of the appearance of unforeseen obstacles. John Redmond, during the first reading debate, had expressed his dissatisfaction with some of the provisions of the bill; he indicated that the bonus was insufficient to induce the largest landlords to sell, he emphatically disapproved of the permanent rent charge, he objected to the clause that compelled the minority to purchase their holdings, and finally he declared the limitations imposed by the zonal reductions too rigid.<sup>61</sup> This sweeping and indeed unexpected criticism stirred up that portion of the Tory phalanx that had accepted Wyndham's terms as the *ne plus ultra*. If Redmond insisted upon any radical changes they threatened to withdraw their support. Their attitude was extremely dangerous as most of the Liberal-Unionists were quite willing to see the bill come to grief.<sup>62</sup>

At this juncture Wyndham appealed to his cousin, W. S. Blunt, an ardent Irish sympathizer, to act as a mediator with the Irish leaders.<sup>63</sup> "If you can make the Irish leader understand how not only I but the whole cause of Irish land legislation may be wrecked by a lack of discretion on this particular head you will be doing a good service."<sup>64</sup> Thus early in April Wyndham and Redmond became acquainted with the other's problems. Redmond was meeting with an opposition led by Michael Davitt and Archbishop Walsh and feared difficulty at the Irish convention that would meet during the middle of the month. "I will do my best to get it through," he promised, "and let the English imagine if they like that they are doing a fine and generous thing." Wyndham acceded to a number of minor changes but he told Blunt "I fear that any attempt, and above all, any attempt now, to increase the

<sup>61</sup> *Hansard*, Vol. 120, 208-16.

<sup>62</sup> Blunt, Vol. II, 48, 51.

<sup>63</sup> Blunt had been imprisoned by Balfour under the Crimes Act. He was widely known in English circles as an inveterate political gossip.

<sup>64</sup> Blunt, Vol. II, 48.

£12,000,000 would give an advantage to those in England who are hostile to the whole plan. I think this is a great danger.”<sup>65</sup>

The Irish convention met on April 16. Despite the open opposition of Davitt and the malevolence of Dillon and Sexton, Redmond ably supported by O'Brien came off the victor. But the seeds of dissension were not dispelled. Soon after John Dillon bolted and was joined by Sexton, who carried with him the *Freeman's Journal*. Davitt's opposition to the bill was to be explained by his almost fanatical adherence to a policy of land nationalization which the people could not understand and cared little about. Dillon's point of view needs little explanation. He belonged to the group of die-hards who believed that the settlement of the land question would undermine the strength of the demand for Home Rule. Sexton's action was due possibly to wounded vanity. He had long been recognized as the financial authority of the Irish party, yet neither his presence nor his proposals were required at the land conference. These three men maintained a more or less determined resistance to the Wyndham settlement even after it was written upon the statute book.<sup>66</sup>

Meanwhile, Redmond took every possible precaution to isolate the revolt. He warned Wyndham that a grave injury would be wrought if the Irish amendments were snuffed out during the second-reading debate. On another occasion he informed Blunt that he must press for the withdrawal of the maximum limits of reduction under the zonal system, though he would not insist upon an augmentation of the landlord's bonus. In his final memorandum to Wyndham he made it clear that certain changes must be made to allay a growing apprehension in Ireland, and that the best policy for all would be to postpone the discussion of these points until the bill had reached the committee stage. Fortunately, Redmond's position became stronger. The recalcitrants were successful nei-

<sup>65</sup> *idem*, 49-51.

<sup>66</sup> Macdonagh, 164-7.

ther in Ireland nor in America. Of the American Irish, Redmond could write: "They don't understand the land question there, nor the bill and they will take the view we take."<sup>67</sup>

Meanwhile, Wyndham was having moments of anxiety. He was fearful lest Chamberlain get wind of his negotiations with the Irish. "Chamberlain," he said, "is sure to question me as to my having any direct communications with the Irish party or coming to terms with them. It must be kept absolutely secret."<sup>68</sup> At a Cabinet meeting on May 1 he was evidently accused for he was obliged to promise that he would neither communicate nor give pledges to the Irish leaders before the second reading of the bill. The negotiations, however, were continued under the caption of "casual talk." The Irish hearing of Chamberlain's opposition came around nicely; O'Brien, determined to press for zonal reductions, abandoned his purpose and even Dillon promised "out of party loyalty" to support the bill.<sup>69</sup>

On May 4 Coghill began the long anticipated debate with the argument that the British taxpayer was not adequately protected against loss, emphasizing the point that the present Irish leaders could not guarantee that a "Plan of Campaign" might not be undertaken before the purchase operations were consummated. Coghill's motion of rejection was couched in terms that enabled the friends of the bill to defend its principles and thus escape a discussion of provocative amendments. Arthur Balfour and Earl Grey, a Liberal, made the task easy for Wyndham who concluded the debate on May 7 with a remarkable speech. The Tory opposition failed to materialize and Chamberlain maintained a "glum silence." The second reading was carried by one of the largest majorities on record—417 to 26.<sup>70</sup>

In committee, since the bill was obviously safe, the Irish fought to secure amendments. They desired above all to

<sup>67</sup> Blunt, Vol. II, 53-4.

<sup>68</sup> *idem*, 51.

<sup>69</sup> *idem*, 54-6.

<sup>70</sup> *Annual Register*, 1903, 124-6.

abolish the maximum zonal reductions on the ground that between 1885 and 1903 the average price for land was only 17½ years' purchase of the rent. "If the government," wrote Redmond, "insists on the maximum reductions there will undoubtedly be a very bitter conflict on the first clause of the bill in committee with possible recriminations between the representatives of the landlords and tenants. This would undoubtedly spread to Ireland and the present unanimity of opinion, which in my view alone makes it possible to carry the bill, may entirely disappear. The retention of the maximum reductions is really a small matter, and the government ought in my opinion seriously to consider the responsibility of again raising a conflict of classes in Ireland threatening the whole future as well as the passage of this bill."<sup>71</sup> On the other hand Wyndham had received intelligence from Dunraven that the landlords' conference was irrevocably opposed to the alteration. Indeed, Redmond himself had confessed that he did not see the necessity for the amendment; but so great was the stir in Ireland that public opinion had gotten out of control. Wyndham complained, and with justice, that the Nationalists were not keeping to the conference agreement. Finally, on June 23 a secret meeting was held where Wyndham and Redmond arrived at a compromise without any great difficulty. Tory opinion would indeed have received a shock could it have viewed the spectacle of a chief secretary closeted with the leader of the Irish Nationalists.<sup>72</sup>

On the following day Wyndham accepted an amendment enabling the estates' commissioners to sanction advances outside the limits of the zones of reduction if they were satisfied with the security and deemed the price equitable.<sup>73</sup> The permanent rent charge was also dropped on Redmond's insistence. He had argued that any such obligation would deprive the Irish people of the sense of absolute ownership which

<sup>71</sup> Blunt, Vol. II, 58.

<sup>73</sup> Sect. I, s.s. 2, sect. 5.

<sup>72</sup> *idem*, 58-62.



was so highly prized.<sup>74</sup> With regard to the minor changes there was little opposition; the maximum advance allowable under the bill was increased to £7,000 and the provisions enabling evicted tenants, "the wounded soldiers of the land war," to purchase their holdings were enlarged. The bill became law in August 1903 and went into operation in November of that year.

### *The Administration of Land Purchase*

Under former purchase acts and provisions sales were carried out by individual holdings with the land commission acting as intermediary between the parties. This method, though productive of results, was costly, slow and unsuitable to a huge-purchase operation. Under the Wyndham Act the landlord was obliged to sell an "estate." This made for the rapid completion of sales agreements, especially since under the law all judicial holdings were exempt from inspection as to security or equity of price. Where formerly the obstacle was the inability of the land commission to keep abreast of the applications, after 1903 it was the inability of the treasury to finance the flood of sales agreements placed before it by the estates commissioners. In 1909, for instance, £56,000,000 in sales agreements were pending, while only half that amount had been dealt with during the period when the act was in force.

Where the landlord made an agreement of sale with his tenants, subject of course, to the limitations of the act, the transaction was known as a "direct sale." The act provided also for "indirect" sales, whereby the estates commissioners purchased an estate from the landlord and resold to the tenants.<sup>75</sup> In either case the commissioners were empowered to rid the estate of uneconomic holdings, by adding to the existing holdings untenanted strips of land or by interchanging strips of land so as to consolidate the occupier's farm land.

<sup>74</sup> *Hansard*, Vol. 122, 211.

<sup>75</sup> Sect. 6.

The peasant as the accompanying summary shows was able to borrow from the State on easier terms than under preceding purchase arrangements.<sup>76</sup>

<i>Act</i>	<i>Rate of Annuity</i>	<i>Rate of Interest</i>	<i>Sinking Fund</i>	<i>Number of Years Payable (est.)</i>
1881	5%	3½%	1½%	35
1885-1888	4%	3⅛%	⅞%	49
1891	4%	2¾%	1¼%	43
1896	As in the Act of 1891, with decadal reductions			
1903	3¼%	2¾%	½%	68½
1909	3½%	3%	½%	65½

Under the Act of 1891, for instance, the annuity rate was fixed at 4 per cent, of which 2¾ per cent constituted the interest charge and 1¼ per cent the sinking-fund payment. By this arrangement the principal was wiped out in about 43 years. Under the Wyndham Act the annuity was reduced to 3¼ per cent; 2¾ per cent for interest and ½ per cent for sinking-fund purposes. The reduction in the sinking-fund payment was responsible for the longer period of repayment, 68½ years. The terms of the Wyndham Act were slightly amended by the Birrell Act, 1909.

In spite of the fact that the Wyndham Act was rapidly securing the transfer of the land from the owners to the occupiers it had to be radically amended in 1909. Before 1903, £24,000,000 had been advanced to the occupiers by the State for the purchase of 1,500,000 acres of land. From 1903 to 1909, a period of less than six years, £28,000,000 had been advanced and in addition, as has been mentioned, £56,000,000 in sales agreements were pending. Up to 1909 over 7,000,000 acres of land had been affected by land-purchase operations, if that under agreement but not yet transferred be included. Over 9,000,000 acres remained to be dealt with. Wyndham had calculated that £100,000,000 would be sufficient to transfer all the salable land in Ireland to the occupiers. In 1909, however, it was agreed that the

<sup>76</sup> Bailey, 34.

figure would be nearer twice that amount; the government estimate was £183,000,000.

By 1909, £33,000,000 worth of land stock had been issued; hence the delay in completing the purchase agreements. The market price of the stock was 87  $\frac{5}{16}$ . There lay the difficulty. The treasury was forced to issue £113 5s. in stock to obtain £100 in cash. Augustine Birrell, the Liberal chief secretary, was convinced that for the next decade there was little possibility of the stock rising above 85. At that figure the charge for excess stock would exceed £1,000,000 annually. The interest charges on the excess stock was in the first interest provided from the Irish development grant (£185,000).<sup>77</sup> By 1909 that fund had been exhausted. To finance even the £56,000,000 in sales agreements outstanding, £250,000 a year would be required. If the whole land purchase operation were to be completed the charge would exceed £850,000 a year. The Wyndham Act, like several former purchase acts, had optimistically provided that any additional losses would be charged upon the Irish guarantee fund (cash and contingent portions). The government, confronted with the hard facts of the case, realized that it was impossible to fasten such a huge liability upon revenues that were already reserved for very essential purposes.<sup>78</sup>

Under the circumstances it was wisely decided to change the provisions of the Act of 1903. Birrell proposed first that the treasury absorb the losses entailed in completing the outstanding sales agreements. This free gift was calculated to come to £7,000,000. In regard to all future agreements it was provided that the vendors should be paid in 3 per cent land stock and that the terms of the annuities should be increased to 3½ per cent. In November 1908, in accordance with an

<sup>77</sup> £160,000 was specifically designated for the purpose of covering losses on stock flotation.

<sup>78</sup> For the breakdown of the Wyndham Act, see Bailey, 31, 32; Martens, 127-8.

emergency provision in the Act of 1903, the treasury availed itself of the privilege of reducing the cash bonus to landlords from 12 per cent to 3 per cent. This step naturally led to a cessation in the sale of land since the owners could not afford to sell. Birrell proposed that the bonus limit of £12,000,000 be removed and that henceforth the cash bonus be graduated (from 3 per cent to 18 per cent) in accordance with the sale price—the number of years' purchase. The schedule was as follows:

<i>First-Term Rents</i> <sup>79</sup> 26 years purchase	<i>Second-Term Rents</i> 24 years purchase	<i>Bonus</i> (in per cent)
(or more)	(or more)	No bonus
Between 25 and 26	Between 23 and 24	3
" 24 " 25	" 22 " 23	4
" 23 " 24	" 21 " 22	6
" 22 " 23	" 20 " 21	8
" 21 " 22	" 19 " 20	10
" 20 " 21	" 18 " 19	12
" 19 " 20	" 17 " 18	14
" 18 " 19	" 16 " 17	16
Under 18	Under 16	18

The 12 per cent cash bonus had tempted landlords to stand out for a high price, whereas the graduated bonus offered them an inducement to sell at a lower figure. The capital sum of the graduated bonus would come to about £15,000,000, but owing to stock depreciation the cost to the treasury would be nearer £17,000,000.

In 1909 there were £56,000,000 in sales agreements pending. This block was due to the difficulty of raising more than a limited amount of money in the market each year and to departmental limitations. In 1908 when it became known that the bonus would be reduced to 3 per cent a large number of landlords hastened to complete sales agreements with their tenants. Birrell calculated that unless new arrangements were made in regard to the pending sales agreements, it would take eleven years to execute them. To relieve this congestion

<sup>79</sup> Quoted in Martens, 128.

he proposed that the landlords who would accept payment in  $2\frac{3}{4}$  per cent stock at 92, a 3 per cent investment, be given special priority in settlement. By this arrangement the disposal of the pending agreements would be hastened.<sup>80</sup>

The Birrell bill passed through Parliament without difficulty. George Wyndham resented the mutilation of a measure that had resulted in greatly stimulating the sale of estates and his prediction that purchase would proceed more slowly in the future was far from false. In Ireland William O'Brien supported by a few faithful followers took the position that the treasury was responsible for the breakdown of purchase and should be compelled to complete the work regardless of loss. At the so-called "Baton Convention" his propositions received a rude reception. In general, public opinion approved the passage of the Birrell bill since all felt that land purchase should continue only so long as no financial loss was incurred by the State. Beyond that there was little interest in the measure in Parliament or in Great Britain.<sup>81</sup>

When the Free State Treaty was proclaimed in 1922 Ireland had been converted into a country of peasant proprietors. Under the system of direct sales under the Acts of 1903-1909 nearly 200,000 peasants were enabled to become owners of their holdings. Nearly 6,250,000 acres of land passed from landlord to peasant. The transaction involved about £68,000,000, practically all of which had been lent by the State to the occupiers. At that time 37,000 direct sales—involving an additional 1,000,000 acres and further advances of £9,000,000—were pending. Under the system of indirect sales the commissioners had succeeded in reselling over 25,000 holdings to the occupiers; more than 800,000 acres of land. In all more than a half of the soil of Ireland had been transferred to the Irish peasants

<sup>80</sup> *Annual Register*, 1909, 70-2, 158-9, 171, 196-8, 205, 208, 219, 242, 256-7.

<sup>81</sup> Macdonagh, 179-84.



## LAND PURCHASE SUMMARIZED

The following table shows the whole Land Purchase transactions in a nutshell:

<i>Acts</i>	<i>No. of Estates</i>	<i>No. of Holdings</i>	<i>Acreage</i>	<i>Advances (£) by</i>	<i>Purchase Money</i>	
					<i>Cash Lodged Purchasers (£)</i>	<i>Total Purchase Money (£)</i>
1870		877	52,906	514,536	344,986	859,522
1881		731	30,657	240,801	114,793	355,594
1885-1888		25,367	942,625	9,992,536	170,298	10,162,834
1891-1896		46,834	1,482,749	13,146,892	254,334	13,401,226
Total		73,809	2,508,937	23,894,765	884,411	24,779,176
1903-1909	9,459	270,396	9,037,392	84,822,857	1,072,772	85,895,629
Total	9,459	354,205	11,546,329	108,717,622	1,957,183	110,674,805
1903-1909 Pending Sales	1,248	46,621	1,492,243	10,653,198	65,205	10,718,403
Grand Totals	10,707	400,826	13,038,572	119,370,820	2,022,388	121,393,208

through the agency of the Wyndham and the Birrell Acts.<sup>82</sup>

The subsidiary provisions of these acts were equally successful in their objects. Some 250 landlords purchased their demesnes on terms that enabled them to convert 5 per cent mortgages into  $3\frac{1}{4}$  per cent obligations. Aside from the special work done by the Congested Districts board, the commissioners by purchasing untenanted lands were able to enlarge over 10,000 existing holdings and to create nearly half that number of new holdings. Special attention was given the evicted tenants. Some were reinstated in their former holdings and others were given new holdings. Large sums were expended in financing the incumbents and in equipping their farms. The terms of the Wyndham Act were found to be insufficient for this purpose, so in 1907, under Birrell's direction, an Evicted Tenants Act was passed which gave the estates commissioners the power to acquire land compulsorily. Under this provision 26,000 acres of land were purchased. In all about 3,500 evicted tenants or their representatives were reinstated or given new holdings. Thus, in Irish eyes at least, a great injustice had been remedied.<sup>83</sup>

### *The Congested Districts*

In 1891, be it recalled, certain poorer areas especially in the west of Ireland were designated for special treatment. Until that time no differentiation had been made between the man who could "make his rent" and the man who for obvious reasons could not. Thereafter the government recognizing more clearly its duty of arresting the spread of poverty contributed larger and larger sums for that purpose. Between 1891 and 1909 the income of the Congested Districts board was enlarged from £41,000 to £250,000. The original Congested Districts had included the most improvi-

<sup>82</sup> *Report of the Estates Commissioners, 1921*, VII, VIII, IX; the accompanying table was compiled from this source.

<sup>83</sup> *ibid.*, VIII, X, 30-1; Bailey, 30.

dent poor-law electoral districts in the province of Connaught and in the counties of Donegal and Kerry—an area of 3,600,000 acres. Subsequently the Congested Districts were expanded to include half the area and a third of the population of Ireland. This redefinition was not due to an increase in poverty but to the desire to give the board greater access to land necessary for the enlargement and creation of holdings. By 1909 there remained but little arable untenanted land in the original area, and by law the board had been precluded from purchasing estates outside the Congested Districts.

Only brief mention can here be made of the countless activities of the board in its work of economic rehabilitation. The fishing industry was revived—in 1891 the returns from this source were negligible; in 1913 fishermen from Donegal, Galway, Kerry and Cork earned £167,000. In consequence many remote neighborhoods for the first time learned the meaning of productive enterprise. Considerable attention, too, was devoted to the revival of home industries, particularly among women, so that at present there is an annual turnover of £50,000 in lace-making, crochet work and allied occupations. Much of the money so earned finds its way into agricultural enterprise. Technical instruction was inaugurated in boat-making, barrel-making and particularly in stock-raising and agriculture. Indeed the board engaged in such varied functions as the care of the sick and the improvement of facilities of communication. In 1909 the occupational and philanthropic work of the board was transferred to the department of agriculture. One gage of the growth of material prosperity in the Congested Districts is to be found in a nine-fold increase in post-office savings banks deposits between the years 1891 and 1912.

The best-known and indeed the most vital work of the Congested Districts board has been in conjunction with the purchase, improvement and resale of land, both tenanted and untenanted. From the beginning, perhaps owing to the fasci-

nation for buying, selling and dealing in land common to all Irishmen, the original functions of the board—the development of agriculture and industry—were relegated to second place. Though not specifically empowered by the Act of 1891 to enter into the purchase of estates, the board due to the shrewdness of its solicitor, George Fottrell, immediately embarked upon the course that was soon to become its main function.

Until 1896, however, progress was hampered by the necessity of having to make its purchases from an income for the most part earmarked for other purposes. In that year the board was empowered to obtain advances in guaranteed land stock. But until 1899 this privilege availed nothing for the board was prohibited from selling holdings worth less than £10 in ratable value. The intention was obviously to check the increase of small-sized holdings. By an act passed in 1899 this ban was removed because the prohibition proved to be impracticable in areas where the average-sized holding was smaller than that permitted by the law.

The powers of the board steadily increased until the zenith was reached in 1910. The Wyndham Act provided for the purchase of "congested estates," those upon which half the holdings were valued under £15, or which included much untenable land. Financial loss was anticipated in redistributing the holdings upon such an estate so the income of the board was increased. Power was given the board to decide upon the advisability of making advances to occupiers, and upon the amount and the adequacy of the security. By the Birrell Act (1909) the consent of the board was required for all purchase agreements made in the Congested Districts. Of greatest importance, however, was the provision enabling the board to exercise the power, within limits, of compulsory expropriation. Some twenty estates were acquired in the exercise of this power. In only one case was the power of the

board contested. The Marquis of Clanricarde, long regarded as the champion of the strictest legal rights of the landlords and long despised by the Irish people, was dispossessed of his estate after a tedious legal struggle. On final appeal the House of Lords upheld the action of the board and their decision was hailed by the peasants as a great victory.

When the Congested Districts board was dissolved in 1923, the work of relieving congestion was practically complete. In the whole of Connaught there remained no estate of considerable size to be dealt with. This immense task was accomplished during a broken period of ten years, 1903-1908 and 1910-1915. The work before 1910 was largely experimental; in all only 200 estates were purchased. From 1908 to 1910 work was suspended pending action upon the report of the royal commission on the Congested Districts. 1910 to 1915 was the period of great achievement; over 700 estates were dealt with. With the outbreak of the World War work was again suspended owing to the high cost of labor and unsettled conditions in Ireland. It was never completely resumed.

In considering the work of the board over the whole period of its existence, 1891-1923, we are best enabled to visualize the achievement. Approximately 1,000 estates, comprising 2,000,000 acres of land, were purchased by the board. Nearly 60,000 holdings were either improved or created, and sooner or later all will be in the hands of peasant proprietors. Over £2,250,000 were expended in the improvement of holdings, half upon dwellings and farm buildings and half upon such works as drainage, fencing and road-making. By 1911, owing to direct aid and through the stimulus of voluntary improvement schemes such as those in the hands of parish committees, 80 per cent of the worst class of dwellings had disappeared.<sup>84</sup>

<sup>84</sup> H. Plunkett, in the *Journal of the Royal Agricultural Society*, Vol. 72, 58 ff; Martens, 142-95; Bailey, 36-41; and especially W. L. Micks, *History of the Congested Districts Board*.



The results, however, may be summarized other than statistically. In the Annual Report of the Board for 1920 we read: "In the year 1891 the people whose condition has been improved was struggling for a living on little holdings of cut-away bog moor or exhausted land of poor quality, while tantalizingly close to them were tracts of land used for the grazing of cattle and sheep. The marvellous change where the land-purchase operations of the board have been finished can hardly be understood without personal inspection by those who knew the country before the board purchased the estates. But even those who had not such previous knowledge can see new or improved houses, with compact, well fenced farms, tilled and grazed in a manner that is highly creditable in the first years of occupancy by those who a few years before had lived in unhealthy hovels with little plots of unproductive soil that obliged men to go to England, and to leave their crops to be attended to by wives and children."<sup>85</sup>

#### *The End and the Beginning*

Ireland today is a land of peasant proprietors. In 1922, the year of partition, only 70,000 holdings remained to be purchased by their occupiers. Roughly two-thirds were situated in the Free State. Some 400,000 new owners were in possession of 13,000,000 acres of land. Had not the World War intervened the process would have been brought to completion. Indeed in 1913 so little land remained to which the system of voluntary purchase could apply that the chief secretary in introducing a purchase measure recommended that the principle of compulsory expropriation be adopted to complete the transfer of the soil to the occupiers. But that bill and another introduced in the following year were not accepted. In 1922, therefore, over 5,000,000 acres of land, three-fourths of which was situated in the Free State, remained to be dealt with. The treasury in the course of the

<sup>85</sup> Quoted in Micks, 151-2.

purchase operation had lent to the Irish peasants £120,000,000 and had lost practically nothing. In 1922 the irrecoverable debt in lieu of annuities amounted to only £12,000.

The movement for compulsory expropriation, though submerged during the war, came to the surface in January 1918 when the Irish convention adopted a scheme that won the support of both peasants and landlords. A bill to give effect to its recommendation was introduced in Parliament in 1920, but lack of time prevented its enactment. After the treaty the Free State government passed a sweeping agrarian law abolishing dual ownership and compelling landlords to sell their estates and tenants to purchase their holdings. Since the owners were obliged to sell at a price that represented at most only 75 per cent of their former rentals (the purchase price could not exceed  $13\frac{3}{4}$  years' purchase), the State granted them a bonus of 10 per cent on the sale price. The tenants purchased their holdings subject to annuities equal to a reduction of 30 to 35 per cent of their second-term rents. Naturally this measure of universal and compulsory purchase did not satisfy all parties, but is considered an honest attempt to deal with a problem which if neglected might lead to serious trouble. Northern Ireland, after consultation with the landlords convention and the Ulster farmers union, saw fit to take a similar step. Thus, in 1923, the solution of the most difficult problem perhaps in Irish history was finally achieved.<sup>86</sup>

After all, however, it must be understood that, though the possession of the land by the people is indispensable, the economic regeneration of Ireland lies ahead. Sir Horace Plunkett recognized this fact a generation ago when he began to preach the doctrine of self-help among the peasantry. Fortunately the movement of agricultural and industrial

<sup>86</sup> *Sessional Papers*, 1923, Vol. XII, Part I, 4, 5; *ibid.*, Part I, *Report of the Committee on Land Purchase in Northern Ireland*; *Saorstát Éireann*, no. 42; Land Act, 1923.

cooperation coincided with the establishment of the peasant proprietary. Nevertheless Plunkett's task was exceedingly difficult. As Daniel O'Connell in the 'twenties was forced to be content with the rawest kind of political timber, so Plunkett at the end of the century was forced to deal with a group that had no conception of the problem confronting it.<sup>87</sup>

In the continental countries along the Atlantic agricultural cooperation met with success because it was embraced by men who were real farmers and who were able to comprehend quickly the advantages of group buying and selling. The Irish occupier, though now an owner, had never been a farmer in the sense of cultivating the soil at a profit. For him the possession of land had ever been the goal. For him that alone meant economic independence—what lay beyond was an uncharted sea. Proprietorship was the millennium and that is readily understood for it meant the removal of all the terrors and the burdens of the past—the fear of eviction, the harrowing struggle to meet a rack rent, and the interminable game of hide-and-seek with the landlord. Freed from it all is there any wonder that the peasant was tempted to rest on his oars and face the future with tranquillity?

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